

Imprimatur;  
J. BERKENHEAD.

1660.

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A N  
*EXACT* and most *IMPARTIAL*  
**ACCOMPT**

O F  
The *Indictment, Arraignment, Trial,*  
and *Judgment* (according to *Law*) of  
Twenty Nine

**REGICIDES,**

T H E  
**Murderers**

Of His Late.  
**SACRED MAJESTY**

Of Most Glorious Memory:

Begun at *Hicks-Hall* on *Tuesday*, the  
9th. of *October*, 1660. And Continued  
( at the *Sessions-House* in the *Old-Bayley* ) until  
*Friday*, the nineteenth of the same Moneth.

Together with a SUMMARY of the Dark, and Horrid  
Decrees of those *Cabalists*, Preparatory to that Hellish Fact.

Expos'd to view for the *Reader's* Satisfaction, and  
Information of *Posterity*.

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London, Printed for R. Scot, T. Basset, R. Chiswell  
and J. Wright, 1679.



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# SUMMARY

(by way of *Premise*) of the dark Proceedings of the *Cabal* at

## WESTMINSTER,

Preparatory to the Murther of His late Sacred Majesty, Taken out of their own *Journal-Book*.

3. *Jan.* 1647. **T**He Commons *Resolved*, That no further Addres-  
ses be made to the King, by themselves, nor  
by any other, without leave of both Houses;  
And those, that do, to incur the Penalty of *High-Treason*.

And *Declare*, They will receive no more Messages from Him.

And *Enjyn*, That no Person, whatsoever, receive, or bring, any Message from Him, to Both, or either Houses, or to any other Person.

15. *Jan.* 1647. The Lords concurred to these Votes.

17. *August*, 1648. The Commons concur with the Lords, That these Votes for Non-Addresses be Revoked.

20. *November*, 1648 The Army present their *Remonstrance* to the Parliament, for bringing Delinquents to Justice.

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24. *Novem-*

24. November, 1648. The Treaty, at the Isle of *Wight*, Voted to continue till the twenty seventh of November.

1. December, 1648. Master *Hollis* presents an Account of the Treaty with the King.

And, the same day, information was brought them of the King's being removed, from *Carisbrook*, to *Hurst Castle*.

5. December, 1648. The King's Answer to the Propositions Voted a Ground for the House to proceed upon, for Settlement of the Peace of the Kingdom.

6. December, 1648. The Members were secured by Colonel *Pride*.

7. December, 1648. The House of Commons appointed a Day of Humiliation; *Peters, Caryl, and Marshal*, to perform the Duty.

The several Votes	<div style="border-left: 1px solid black; border-right: 1px solid black; padding: 0 5px;"> <p>For Revoking the Votes for Non Addresses to the King, For a Treaty to be had with Him, That His Answers to the Propositions, were a Ground for Peace,</p> </div>	<p>Voted Dishonourable and De- structive.</p>
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23. December, 1648. A Committee was appointed to consider, how to proceed in a way of Justice against the King, and other Capital Offenders.

28. December, 1648. An Ordinance for Trial of the King was read.

1. January, 1648. Declared, and adjudged by the Commons, That, by the Fundamental Laws, It is Treason in the King of England for the time being, to levy War against the Parliament and Kingdom.

2. Jan. 1648. The Lords disagreed to this Vote, and cast it out, and the Ordinance for Tryal of the King, *Nemine contradicente*.

3. Jan. 1648. The same Vote was again put to the question in the House of Commons, and carried in the Affirmative.

4. Jan. 1648. Master *Garland* presents a new Ordinance for erecting an High Court of Justice for Tryal of the King, which was

was read the first, second, and third time, assented to, and passed the same day.

And Ordered no Copy to be delivered.

*Same day.* Resolved, That the People are (under God) the Original of all just Powers.

That themselves, being Chosen by, and Representing the People, have the Supreme Power in the Nation.

That whatsoever is Enacted, or Declared, for Law by the Commons in Parliament, hath the force of a Law, and the People concluded thereby: though Consent of King, and Peers, be not had thereunto.

6 Jan. 1648. The Commissioners for Tryal of the King are Ordered to meet on Monday then next at two of the Clock, in the Painted-Chamber,

Their days of sitting were, 8, 10, 12, 13, 15, 17, 18, 19, 20, 22, 23, 24, 25, 26, 27, 29, of January, 1648.

Painted-Chamber, Monday, 8 January. They chose Ask, Dorislaus, Steel, and Cook, to be their Council, and other Officers.

And sent out their Precept, under their Hands, and Seals, for Proclaiming their Court in Westminster-hall, to be held in the Painted-Chamber, on the tenth. Which Precept is all of Ireton's Hand-writing. *Journal of the Court*, fol. 6. And

Tuesday, the 19th. The Commissioners Ordered; That the Proclamation be made in Cheap-side, and at the Old-Exchange: And appointed a Committee to consider of the matter of Government, of making a new Great Seal, and not using the name of a Single Person.

Wednesday, the tenth. They chose Bradshaw (who was absent) for their President, and Say, *pro tempore*, who gave Garland thanks for his Pains about the business of the Court. Fol. 72.

And appointed their Council to prepare, and prosecute, their Charge.

And a Committee to consider for carrying on the Tryal. Whereof Millington, Garland, and Martin were three.

Friday, the twelve. Waller, and Harrison, are desired to attend the General, to appoint Guards, to attend the Court,

And Titchbourn, and Roe, with others, to prepare for the

Solemnity of the Tryal, and to appoint Workmen, &c. *Fol.* 16.

The Charge to be brought in on *Monday*.

And *Waller, Scot, Titchbourn, Harrison*, and others to consider of the place for Tryal, and Report the next day.

*Saturday*, the thirteenth. Upon *Garland's* Report, *Ordered*, The Tryal be where the Courts of *King's Bench*, and *Chancery* sate in *Westminster-Hall*. *fol.* 20.

*Monday*, the Fifteenth. The Council brought in a Draught of the Charge. And a Committee appointed, to advise therein, and compare the Evidence therewith. *fol.* 21.

And they, and others, to consider the manner of bringing the King to his Tryal.

And that day *Titchbourn* delivered a Petition to the Commons, in the name of the Commons in *London*, in *Common-Council*, differing from the Lord Major, and Aldermen.

The Substance was, for bringing the King to Justice. Which was *Ordered*, to be Registered in the Books of *Common-Council*.

*Wednesday*, the 17th. The Charge recommitted to the Committee. *Fol.* 24.

*Thursday*, the 18th. *Titchbourn* excused the absence of Mr. *Steel*: and nothing then else done. *Fol.* 29.

*Friday*, the 19th. Upon *Millington's* Report of the Charge, and Form of words for exhibiting it; *Ordered*, That the *Attorney*, or, in his absence the *Solicitor* exhibit it. *Fol.* 30.

And *Waller, Harrison*, and others, to appoint thirty to wait upon the King; and twenty upon the *President*.

*Saturday*, the 20th. Forenoon. *Ordered*, That *Mildmay* deliver the Sword of State to *Humphreys*, to bear before the *President*.

The *Solicitor* presents the Charge engrossed; which being read, and signed, by him, was returned to him to be exhibited. And then Adjourned to *Westminster-Hall*.

*Westminster-Hall*, *Saturday*, the 20th. Afternoon. The King was brought in by *Thomlinson*, attended by *Hacks*, and two and thirty Partisans.

And *Cook* then exhibited the Charge. And the King not owning

owning their Authority, was remanded. And they Adjourned till Monday.

*Painted-Chamber, Monday, the 22d. Forenoon.* They approved of what their President had done on *Saturday*; and *Resolved*,

That the King should not be suffered to question their Jurisdiction. *Fol. 50.*

*Westminster-Hall, Same day, Afternoon.* Cook prayed, That the King be directed to answer; and, if he refused, That the matter of the Charge be taken *pro confesso*. And the King, not owning their Authority, was remanded. *Fol. 58.*

*Westminster-Hall, Tuesday, the 23d. Afternoon.* The King, not owning their Authority, was remanded; and the Court Adjourned to the *Painted-Chamber*.

And there *Resolved*, They would examine Witnesses, *Fol. 61.*

*Painted-Chamber, Wednesday the 24th.* was spent in examining their Witnesses. *Fol. 66.*

*Painted-Chamber, Thursday, the 25th. Afternoon.* They examined more Witnesses.

They *Resolved* to proceed to Sentence of Condemnation against the King.

And that this Condemnation, be for being *Tyrant, Traytor, and Murderer, and Publick Enemy to the Commonwealth.*

And that the Condemnation extend to Death. *Fol. 68.*

And *Ordered*, That a Sentence grounded upon these *Votes*, be prepared by *Scot, Marten, Harrison, and others.*

*Painted-Chamber, Friday the 26th.* The draught of the Sentence Reported, and agreed; And *Resolved*, That the King be brought the next day to *Westminster-Hall*, to receive it, *Fol. 96.*

*Painted-Chamber, Saturday the 27th. Fore-noon.* The Sentence being engrossed; *Resolved*, The same should be the Sentence, which should be read, and published, in *Westminster-Hall*, the same day.

That the President should not permit the King to speak after Sentence.

That, after the Sentence read, he should declare it to be the Sence, and Judgment of the Court.

That



That the Commissioners should thereupon signifie their Consent by standing up.

And, the same day, the Commons *Ordered* the Clerk to bring in the Records of that Judgment to the House. *Journal of the House.*

*Westminster-Hall*, the same Day, After-noon. The King being brought in, and not owning their Authority; the Sentence was read.

And, upon the Declaration of the President, That it was the Judgment of the Court, they stood up, and Owned it, and Adjourned to the *Painted-Chamber*.

And there appointed *Waller*, and others, to consider of the Time, and Place, for Execution.

*Painted-Chamber*, Monday, the 29<sup>th</sup>. Upon the report of the Committee, *Ordered*, A *Warrant* be drawn for executing the King in the open Street, before *White-Hall*, the next day; directed to *Hacker*, and others: which was done accordingly, *Fol.* 116.

31. *January*, 1648. *Ordered* by the Commons, That the Lord Grey, out of *Haberdashers-Hall*, to dispose of 100*l.* for the Service of the Common-wealth.

2. *February*, 1648. They *Ordered* in the first place to take into Consideration, and Debate, the House of Lords, for settlement of the Government.

6. *February*, 1648. The House being seventy three; And the *Question* put, Whether that House should take the Advice of the House of Lords in the exercise of the Legislative Power? The House was divided, and it carried, in the *Negative*, by fifteen Voices.

And then *Resolved*; That the House of Peers was useless, and dangerous, and ought to be abolished. And *Ordered* an Act to be brought in, for that purpose.

7. *February*, 1648. They *Declared*, That the Office of a King in this Nation, and to have Power thereof in a Single Person, was unnecessary, burthensom, and dangerous to the Liberty, Safety, and publick interest of the People: and therefore ought to be abolished.

9. *February*, 1648. They *Ordered*, The Narrative of the Proceed,

Proceeding, and Records, for Tryal of the King, to be forthwith brought into this House.

16. *February*, 1648. They Ordered, That the Clerk of that High Court of Justice be desired to bring in those Proceedings to their House, the next Day.

*March*, 1648. Sir *Arthur Haslrig* Reports from the Committee, that *Charles*, and *James Stewart*, Sons of the late King, should dye without Mercy, wheresoever they should be found.

12. *December*, 1650. Mr. *Say* Reported the Proceedings of their High-Court against the King, contained in a Book, entitled, *A Journal*, &c. which was read at large by their Clerk.

He likewise presented from that Court, the *Aſſ* for Tryal of the King, and the *Precept* for holding the Court.

The Charge was exhibited the twentieth; And,

The Sentence Read the twenty seventh of *January*, 1648.

And thereupon they Declared;

That the Persons entrusted in that great Service, had discharged their Trust with great Courage, and Fidelity,

That the Parliament was well satisfied in that Accompt of the Particulars, and Proceedings.

And Ordered. That the same Records do remain among the Records of Parliament, That those Proceedings be Engrossed in a Roll, and Recorded among the *Parliament-Rolls*: for transmitting the Memory thereof to Posterity.

And Resolved, That their Commissioners for their Great Seal issue a *Certiorari* to their Clerk, to transmit those Proceedings into the Chancery, there to be on Record.

And that the same be sent by *Mittimus* from thence to other Courts at *Westminster*, and the *Custos Rotulorum* of the Counties, to be Recorded.

*In the County Middlesex. The Proceedings at Hicks Hall, Tuesday the 9th of October, 1660. in order to the Tryal of the pretended Judges of his late Sacred Majesty.*

**T**He Court being fate ; the Commission of Oyer, and Terminer under the Great Seal of England, was first read. It was directed to the Lords, and others hereafter named : viz.

<i>Thomas Aleyn, Knight, and Baronet, Lord Mayor of the City of London.</i>	<i>The Lord Roberts.</i>
<i>The Lord Chancellor of England.</i>	<i>The Lord Finch.</i>
<i>The Earl of South-hampton, Lord Treasurer of England.</i>	<i>Denzil Hollis, Esquire.</i>
<i>The Duke of Somerset.</i>	<i>Sir Frederick Cornwallis, Knight, and Baronet, Treasurer of His Majesties Household.</i>
<i>The Duke of Albemarle.</i>	<i>Sir Charles Barkly, Knight, Comptrouler of His Majesties Household.</i>
<i>The Marques of Ormond, Steward of his Majesties Household.</i>	<i>Mr. Secretary Nicholas.</i>
<i>The Earl of Lindsey, Great Chamberlain of England.</i>	<i>Mr. Secretary Morris.</i>
<i>The Earl of Manchester, Chamberlain of his Majesties Household.</i>	<i>Sir Anthony Ashley-Cooper.</i>
<i>The Earl of Dorset.</i>	<i>Arthur Annesley, Esquire.</i>
<i>The Earl of Berkshire.</i>	<i>The Lord Chief Baron.</i>
<i>The Earl of Sandwich.</i>	<i>Mr. Justice Foster.</i>
<i>Viscount Say, and Seal.</i>	<i>Mr. Justice Mallet.</i>
	<i>Mr. Justice Hyde.</i>
	<i>Mr. Baron Atkins.</i>
	<i>Mr. Justice Twisden.</i>
	<i>Mr. Justice Tyrrel.</i>
	<i>Mr. Baron Turner.</i>

Sir

*Sir Harbottle Grimston*, Knight, *don.*  
 and Baronet. *Mr. Serjeant Brown.*  
*Sir William Wild*, Knight, and *Mr. Serjeant Hale.*  
 Baronet, Recorder of Lon- *John Howel Esquire.*

*Sir Geoffrey Palmer*, His Majestie's *Attorney General.*  
*Sir Heneage Finch*, His Majestie's *Solicitor General.*  
*Sir Edward Turner*, Attorney to His Highness the Duke of  
*York,*  
*Wadham Windham Esquire.*

*Edward Shelton Esquire, Clerk of the Crown.*

### *The Grand Jury Sworn were,*

<i>Sir William Darcy</i> Baronet,	<i>John Fotherly Esquire.</i>
<i>Foreman.</i>	<i>Charles Gibbons Esquire.</i>
<i>Sir Robert Bolles</i> , Baronet.	<i>Thomas Geree Esquire.</i>
<i>Sir Edward Ford</i> , Knight.	<i>Richard Cox Esquire.</i>
<i>Sir Thomas Prestwick.</i>	<i>Robert Bladwell Esquire.</i>
<i>Sir William Coney</i> , Knight.	<i>Henry Mustian Esquire.</i>
<i>Sir Charles Sidley</i> Baronet.	<i>John Markham Esquire.</i>
<i>Sir Lewis Kirk</i> , Knight.	<i>Edward Buckley, Gent.</i>
<i>Sir Henry Littleton</i> , Baronet.	<i>Francis Bouchier, Gent.</i>
<i>Sir Ralph Bovey</i> , Baronet.	<i>Edward Lole.</i>
<i>Edward Chard Esquire.</i>	
<i>Robert Giggon Esquire.</i>	<i>Hart, Cryer.</i>

After Proclamation for silence was made, it pleased *Sir Orlando-Bridgman*, Lord Chief Baron of His Majestie's High Court of Exchequer, to speak to the *Jury*, as followeth.

*Gentlemen*

## The Lord Chief Baron's Speech.

Gentlemen,

**Y**OU are the *Grand Inquest* for the Body of this County of *Middlesex*: You may perceive by this *Commission* that hath been read, that we are authorized by the King's Majesty to hear, and determine, all Treasons, Felonies, and other Offences, within this County: But because this *Commission* is upon a special occasion, the Execrable Murther of the blessed King, that is now a Saint in Heaven, King *Charles the first*; we shall not trouble you with the Heads of a long *Charge*. The ground of this *Commission* was, and is, from the *Act of Oblivion, and Indemnity*. You shall find in that *Act* there is an Exception of several persons, who (for their Execrable Treasons, in sentencing to Death, and signing the *Warrant* for the taking away the Life of our said Sovereign) are left to be proceeded against as Traytors, according to the Laws of *England*; and are out of that *Act* wholly excepted, and fore-prized.

Gentlemen, You see these Persons are to be proceeded with, according to the Laws of the Land; and I shall speak nothing to you, but what are the words of the Laws. By the *Statute* of the twenty fifth of *Edward the third* (a *Statute*, or *Declaration* of Treason) it is made High-Treason to compass, and imagine, the Death of the King. It was the ancient Laws of the Nation. In no Case else Imagination, or Compassing, without an Actual Effect of it, was punishable by our Law. *Nibil officit Conatus, nisi sequatur Effectus*; that was the old Rule of Law: But in the case of the King; His Life was so precious, that the Intent was Treason by the *Common Law*; and Declared Treason by this *Statute*. The reason of it is this, In the case of the Death of the King, the Head of the Commonwealth that's cut off: and what a Trunk, an *inanimate* Lump, the Body is, when the Head is gone, you all know. For the Life of a single man, there's the Life of the Offendor; there's some Recompence, Life for Life: But for the Death of the King what Recompence can be made? This Compassing,  
and

and Imagining the cutting off the Head of the King is known by some *Overt-Act*. Treason it is in the wicked Imagination, though not Treason Apparent; but when this Poison swells out of the Heart, and breaks forth into Action: in that case, it's High-Treason.

Then what is an Imagination, or Compassing of the King's Death? Truly, it is any thing which shews what the Imagination is. Words in many cases, are Evidences of this Imagination: they are Evidences of the Heart. Secondly, As Words: so if a man, if two men do conspire to Levy War against the King (and (by the way) what I say of the King, is, as well of the King dead, as living; for, if a Treason be committed in the Life of one King, it is a Treason, and punishable in the Time of the Successor) Then, I say, in case, not only of Words; but if they conspire to Levy War against the King, there's another Branch of this *Statute*, the *Levying of War* is Treason. But, if men shall go, and consult together, and this is to kill the King, to put Him to Death: this Consultation is clearly an *Overt-Act* to prove this Imagination, or Compassing of the King's Death.

But what will you say then, if men do not only go about to conspire, and consult; but take upon them to Judge, Condemn, nay, put to Death the King? Certainly, this is so much beyond the Imagination and Compassing: as 'tis not only laying the Cockatrice's Egg; but brooding upon it, till it hath brought forth a Serpent. I must deliver to you for plain, and true, Law; That no Authority, no single person, no community of persons, not the people Collectively, or Representatively, have any coercive power over the King of England. And I do not speak mine own Sense; but the words of the Laws unto you. It was the Treason of the *Spencers*, in King *Edward the Second's* Time, in *Calvin's* case, second Report. The *Spencers* had an opinion, that all Homage and Allegiance was due to the King, by reason of the Crown, as they called it. And thereupon (say the Books, and Records) they drew out this execrable Inference (among others) That if the King did not demean himself according to Right; because he could not be reformed by Law, he might *per asseret*, that is, by sharp Imprisonment: but this was

was adjudged horrid Treason by two *Acts* of *Parliament*.

Gentlemen, Let me tell you what our *Law-books* say : for there's the Ground, out of which ( and the *Statutes* together ) we must draw all our Conclusions for matter of Government.

How do they stile the King ? They call Him, *The Lieutenant of God*, and many other expressions, in the Book of *Primo Henrici Septimi*. Says that Book there ; *The King is immediate from God, and hath no Superior*. The *Statutes* say ; That *the Crown of England is immediately subject to God, and to no other Power*. The King ( says our Books ) *He is not only Caput Populi, the Head of the People ; but Caput Reipublicæ, the Head of the Commonwealth, The three Estates*. And, truly, thus our *Statutes* speak very fully. Common Experience tells you, when we speak of the King, and so the *Statutes* of *Edward the Third*, we call the King, *Our Sovereign Lord the King* : Sovereign, that is, *Supreme*. And when the Lords, and Commons, in *Parliament*, apply themselves to the King, they use this Expression, *Your Lords, and Commons, your faithful Subjects, humbly beseech*. I do not speak any Words of my own ; but the Words of the Laws. Look upon the *Statute, primo Jacobi*, there's a Recognition, that the Crown of *England* was lawfully descended on the King, and His Progeny.

( *The Statute it self was read, to which it is desired, the Reader will be referred.* )

These are the Words of the *Act*. And this is not the first precedent : for you shall find it *primo Eli. cap. 3*. They do acknowledge the Imperial Crown lawfully descended on the *Queen*, the same Recognition with this. Before that ( because we shall shew you we go upon Grounds of Law in what we say ) *Stat. 24. Hen. 8. cap. 12. Whereas by sundry old authentick Histories, and Chronicles, it is manifestly declared, and expressed, that this Realm of England is an Empire, and so hath been accepted in the world, governed by one Supreme Head and King, having the Dignity, and Royal Estate of the Imperial Crown, of the same, &c.*

25 Hen. 8. c. 21. there it is, the people, speaking of themselves, That they do recognize no Superiour under God, but only the King's Grace.

Gen-

*Gentlemen*, You see, if the King be immediate under God, he derives his Authority from no body else: if the King have an Imperial Power; if the King be Head of the Commonwealth, Head of the body Politick; if the body Politick owe him obedience: truly, I think it is an undenied consequence, He must needs be Superiour over them.

*Gentlemen*, This is no new thing, to talk of an *Emperour*, or an *Imperial Crown*. Do not mistake me all this while: It is one thing to have an *Imperial Crown*, and another thing to govern absolutely.

*Gentlemen*, The *Imperial Crown* is a Word, that is significative: you shall find in all *Statutes*, *primo Eliz.* and the first of King *James*, nay, even in the *Act* of Judicial proceedings of this *Parliament*, it is called an *Imperial Crown*. They that take the Oaths of Allegiance, and Supremacy, they swear that they will, to their power, assist, and defend all Jurisdictions, Priviledges, Preheminences, and Authorities, granted or belonging to the King, His Heirs, and Successors, or annexed to the *Imperial Crown* of this Realm. What is an *Imperial Crown*? It is that, which, as to the Coercive part, is subject to no man under God. The King of *Poland* has a Crown: But what is it? At his *Coronation* it is conditioned with the people; That, if he shall not Govern them according to such *Rules*, they shall be freed from their Homage, and Allegiance. But the Crown of *England* is, and always was, an *Imperial Crown*, and so sworn.

*Gentlemen*, As I told you, even now, the *Imperial Crown* is a Word significative; that Crown, which as to the Coercive part, is not subject to any Humane Tribunal, or Judicature; whatsoever. And, truly, that this is such an *Imperial Crown*, though I have cited Authorities ancient enough; you may find them much more ancient. I remember, in the Story of *William Rufus* (you shall find it in *Matibew Paris*, and *Eadmerus*) some *Question* was about *Investiture* of Bishops, and the like, the King writes His Letter, *That, &c.*

God forbid, I should intend any absolute Government by this. It is one thing to have an *Absolute Monarchy*, another thing to have that Government *Absolutely* without Laws, as to



any coercive power over the Person of the King : for as to *Things*, and *Actions*, they will fall under another consideration as I will tell you by and by.

*Gentlemen*, Since this is so, consider the Oath of Supremacy, which most men have taken, or should take. All men, that enter into the *Parliament-House*, they are expressly enjoined by *Statute* to take the Oath of Supremacy. What says that Oath ? We swear, that *The King is the only Supreme Governour within this Realm, and Dominions*. He is *Supreme*, and the *only Supreme* : and, truly, if he be *Supreme*, there is neither *Major*, nor *Superior*. I urge this the more, lest any Person, by any Misconstruction, or Inference, which they might make from something, that hath been Acted by the Higher Powers, they might draw some dangerous Inferences, or Consequences to colour, or shadow over those Murtherous, and Traiterous Acts, which afterwards they committed. They had no Authority. But as I told you, though I do set forth this, and declare this to you, to let you know, that the King was immediately subject to God, and so was not punishable by any Person ; yet, let me tell you, there is that excellent Temperament in our Laws, that, for all this, the King cannot rule, but by His Laws. It preserves the *King*, and his Person, and the peoples Rights.

There are three things, touching which the Law is conversant : *Personæ, Res, & Actiones* ; Persons, Things, and Actions. For the *Person* of the King ; He is the Supreme Head, He is not punishable by any coercive Power : the Laws provide for that. *The King can do no wrong*, it is a *Rule* of Law, it is in our *Law-books* very frequent : 22d. of *Edward the Fourth*. Lord *Coke*, and many others. If he can do no Wrong, He cannot be punished for any wrong. The King, He hath the infirmities, and weakness of a man : but he cannot do any injury, at least not considerable, in Person ; He must do it by Ministers, Agents, Instruments. Now the Law, though it provide for the King ; yet if any of his Ministers do wrong, though by his command, they are punishable. The King cannot arrest a man, as he cannot be arrested Himself : but, if He arrest me by another Man, I have remedy against this

this man, though not against the King : and so, He cannot take away my *Estate*. This as to the *Person* of the King : He is not to be touched : *Touch not mine Anointed*.

I come to *Things*. If the King claim a Right, the King must sue according to His Laws, the King is subject to the Laws in that case, His Possessions shall be tried by Juries. If He will try a man for His Fathers Death, you see he will try them by the Laws. The Law is the Rule, and Square of His actions, and by which He, Himself- is judged.

Then for *Actions* : that is, such *Actions*, whereb/ Rights, and Titles, are prosecuted, or recovered, the King cannot judge in Person betwixt man and man, He does it by his Judges, and upon Oath, and so in all cases whatsoever ; If the King will have his Right ; it must be brought before His Judges. Though this is an *Absolute* Monarchy : yet this is so far from infringing the Peoples Rights ; that the People, as to their Properties, Liberties, and Lives, have as great a privilege, as the King. It is not the sharing of Government, that is for the Libertie, and Benefit of the People : but it is, how they may have their Lives, and Liberties, and Estates, safely secured under Government. And you know, when the Fatness of the *Olive* was laid aside, and we were Governed by *Brambles* : these Brambles, they did not only tear the *Skin* ; but tore the *Flesh*, to the very Bone.

*Gentlemen*, I have done in this Particular, to let you see, that the Supreme Power, being in the King, the King is immediately under God, owing his Power to none, but God. It is true ( blessed be God ) we have as great Liberties, as any People have in *Christendom*, in the World : but let us own them, where they are due. We have them by the Concessions of Our Princes. Our Princes have granted them : and the King, now : He in them hath granted them likewise.

*Gentlemen*, I have been a little too long in this, and yet I cannot say, it is too long : because it may clear misunderstanding ; so many Poisonous Opinions having gone abroad. To come a little nearer. If we consider ; suppose there were the Highest Authority ; but, when we shall consider this horrid Murder ( truly, I cannot almost speak of it, but ———

*faucibus haret.*) When we shall consider, that a few Members of the *House of Commons*, those, that had taken the Oath of *Supremacy*; and those that had taken the Oath of *Allegiance*, that was to defend the King, and His Heirs, against all Conspiracies, and Attempts, whatsoever, against His, and their Persons, Their Crowns and Dignities: not onely against the *Pope's* Sentence, as some would pretend; but, as otherwise, against all Attempts, and Conspiracies; not onely against His Person, Crown, and Royal Dignity, nor *Pope's* Sentence nor, onely in order to the Profession of Religion, but absolutely or otherwise, that is, whatsoever Attempts, by any power, Authority, or Pretence whatsoever. I say, when a few Members of the *House of Commons*, not an eighth part of them, having taken these Oaths, shall assume upon themselves an Authority; an Authority, what to do? shall assume to themselves an Authority to make Laws, which was never heard before; Authority to make Laws: What Laws? a Law for an *High Court of Justice*, a Law for lives, to sentence mens lives; And whose Life? the Life of their Sovereign: upon such a King, who, as to them, had not only redressed long before, at the beginning of the *Parliament*, all Grievances, that were, and were imaginable, taken away the *Star-Chamber*, *High-Commission-Court*, and about *Shipping*: such a King, and after such Concessions, that He had made in the *Isle of Wight*; when He had granted so much, that was more than the People would have desired. When these few *Commons* not onely without, but excluding the rest of the *Commons*; not onely without, but excluding the rest, but rejecting the *Lords* too, that then sat: When these few *Commons* shall take upon them this Authority, and, by colour of this, their King, Sovereign, Liege Lord, shall be sentenced, put to Death; and that put to Death, even as their King, and sentenced as their King; put to Death as their King, and this before His own Door, even before that Place, where He used in *Royal Majesty* to hear Embassadors, to have His Honourable Entertainments: that this King shall be thus put to Death at Noon-day, it is such an Aggravation of Villany; that, truly, I cannot tell what to say. No story, that ever was, I do not think

think any *Romance*, any *Fabulous Tragedy*, can produce the like. *Gentlemen*, If any Person shall now come, and shroud himself under this pretended Authority, or such a pretended Authority, you must know, that this is so far from an Excuse, that it is an Height of Aggravation. The Court of *Common-Pleas* is the Common Shop for Justice: in that Court an appeal is brought for Murther, which ought to have been in the *King's Bench*, the Court gives Judgment, the Party is condemned, and executed: in this Case, it is Murther in them, that executed; because they had no lawful Authority. I speak this to you, to shew you, that no man can shroud himself, by colour of any such false, or pretended, Authority. I have but one thing more to add to you upon this head; and that is (which I should have said at first) If two, or more, do compass, or Imagine the King's Death; if some of them go on so far, as to Consultation; if others of them go further, they sentence, and execute, put to Death: in this Case they are all Guilty; the first Consultation was Treason. I have no more to add, but one Particular, a few Words.

As you will have Bills presented against those; for Compassing, Imagining, Adjudging the King: so possibly you may have Bills presented against some of those, for Levying War against the King: Levying of War, which is another Branch of the *State* of 25th. of *Edward the Third*. It was but Declarative of the Common Law: it was no new Law. By that Law it was treason to *Levy War* against the King. But to levy War against the Kings Authority, you must know is Treason too. If men will take up Armes upon any Publick pretence; if it be to expulse Aliens; if but to pull out Privy Councillours; if it be, but against any Particular Laws, to reform Religion, to pull down Enclosures: in all these cases, If Persons have assembled themselves, in a Warlike manner, to do any of these Acts; this is Treason, and within that Branch of Levying War against the King. This was adjudged in the late Kings Time in *Berstead's* case, *Queen Elizabeth's*, *Henry the Eighth's*, former Times, *King James's* Time: much more; & men will go, not onely to Levy War against the King, but against the Laws, all the Laws, subvert all the Laws, to set up

new Laws, Models of their own. If any of these cases come to be presented to you, you know what the Laws are. To conclude, you are now to enquire of Blood, of Royal Blood, of Sacred Blood; Blood like that of the *Saints* under the *Altar*, crying *Quousque, Domine? How long, Lord, &c.* This Blood cries for Vengeance, and it will not be appeased without a Bloody Sacrifice.

Remember but this, and I have done: I shall not press you upon your Oaths; you are Persons of Honour; you all know the Obligation of an Oath. This I will say, that he, that conceals, or favours the guilt of Blood, takes it upon himself; wilfully, knowingly, takes it upon himself. And we know, that, when the *Jews* said, *Let his blood be on us and our seed*, it continued to them, and their Posterity, to this day,  
*God save the King. Amen, Amen.*

His Lordships Speech being ended; *Thomas Lee* of the *Middle-Temple, London*, Gentleman, was called to give in the Names of his *Witnesses*. The names of the *Witnesses* then, and there sworn, follow;

*William Clark Esq;*  
*James Nutley Esq;*  
 Mr. *George Masterfon Clerk.*  
*George Farrington.*  
*Hercules Huncks.*  
 Dr. *William King.*  
*Martin Foster.*  
*John Baker.*  
*Stephen Kirk.*  
*Richard Nuanelly.*  
*John Powel.*  
*John Throckmorton.*  
*John Blackwel.*  
*Ralph Hardwick.*  
*Thomas Walkley, Gentleman.*  
*Holland Simpson.*  
*Benjamin Francis.*  
 Colonel *Matthew Thomlinson.*

*Griffith Bodurdo Esq;*  
*Samuel Boardman.*  
*Robert Carr Esq;*  
*Richard Young.*  
*Sir Purbeck Temple.*  
*John Rushworth Esq;*  
*John Gerrard.*  
*John Hearn.*  
*Mr. Coitmore.*  
*Mr. Cunningham.*  
*Mr. Clench.*  
*Willim Jessop Esq;*  
*Edward Austin.*  
*Darnel Esq;*  
 Mr. *Brown.*  
*Thomas Tongue.*  
*John Bowler.*  
 Mr. *Sharp.*

Mr.

( 19 )

Mr. Lee:

Robert Ewer.

John King.

Edward Folley.

Mr. Gouge.

Anthony Mildmay Esq.

The Grand Jury returned the Indictment *Billa Vera*.

Court adjourned to the Old-Bailey, 10th of October.

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B 4

The

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The 10. of October; 1660.

**S**IR John Robinson, Knight, Lieutenant of his Majesties Tower of London, according to his Warrant received, delivered to Mr. Sheriff the Prisoners hereafter named; who were (in several Coaches) with a strong Guard of Horse, and Foot conveyed to Newgate, and about nine of the Clock in the Morning, delivered to the Keepers of that Prison, and thence brought to the Sessions-house in the Old-Baily, London: where the Commissioners of Oyer, and Terminer, were in Court assembled, and where their Indictment was publickly read by Edward Shelton Esq; Clerk of the Crown.

Sessions-House, in the Old-Baily, 10. October, 1660.

**T**HE Court being Assembled, and Silence commanded, the Commission of Oyer and Terminer, was again read. After which Sir Hardress Waller, Collonel Thomas Harrison, and Mr. William Heveringham were brought to the Bar, and commanded to hold up their Hands: which Sir Hardress Waller, and Mr. Heveringham did; but Harrison, being commanded to hold up his Hand, answered, *I am here*: and said,

*My Lord, if you please, I will speak a Word—*

Court. Hold up your hand, and you shall be heard in due-time. Mr. Harrison, the course is, That you must hold up your hand first. *And then be held up his hand.*

The Indictment was read, purporting; That He, together with others, not having the fear of God before his Eyes, and being instigated by the Devil, did Maliciously, Treasonably, and Feloniously, contrary to his due Allegiance, and bounden Duty, sit upon and condemn our late Sovereign Lord, King Charles the First, of ever Blessed Memory: and also did upon the thirtieth of January, 1648. Sign and Seal a Warrant for the Execution of His late Sacred and Serene Majesty, of Blessed Memory. Where also, &c.

Clerk of the Crown How sayest thou, Sir Hardress Waller? Art thou guilty of that Treason whereof thou standest Indicted; and for which thou hast now been Arraigned? or Not guilty.

Sir Hardress Waller. My Lords, I dare not say, Not Guilty: but, since that in a Business of this nature, we have

no Council or Advice, and being not able to speak to matter of Law———

Lord Chief Baron. I am loth to interrupt you: but this is the course; you have heard the *Indictment* read, and the course is, you must plead *guilty*, or *Not guilty*. There is no *Medium: Guilty* or *Not guilty*. It is that which is the Law, and the case of all men. Are you *guilty*? or *Not guilty*?

Sir Hard. Waller. *I may confess my self Guilty of some Particulars in that Indictment, but not of all: for so, instead of discharging, I shall wound my Conscience.*

Clerk. Are you, *Guilty*? or *Not guilty*?

Sir Hard. Waller. *If I might have that liberty to——*

Court. You shall have that Liberty, that any Subject of the Nation can have, or can challenge. No man, standing at the Bar, in that condition you are, must make any other answer to the *Indictment* then *guilty*, or *Not guilty*. It's the Common case of all men. Your Confession must be Plain and direct, Either *Guilty*, or *not Guilty*.

Sir Hard. Waller. *My Lord, I do desire some time to consider of it: for it is a great Surprisal.*

Court. You have had time enough to consider of it; you must follow the Directions of the Court, *Guilty*, or *Not Guilty*? You must not thus Discourse of being surprised: for these Discourses are contrary to all *Proceedings* of this Nature.

Clerk. How say you Sir H. Waller? Are you *guilty*, or *Not guilty*?

Sir Hard. Waller. *I dare not say, Not guilty.*

Clerk. Will you confess then?

Sir Hard. Waller. *I would be glad to be understood——*

Court. Your Plea must be direct: *guilty*, or *Not guilty*.

Sir Hard. Waller. *Shall I be heard, my Lord?*

Court. Yes, upon your Trial. There is but two ways, Plead *Not guilty*: or confess it. Sir Hardress Waller, we would not have you to be deceived. If you confess, and say, you are *guilty*: there is nothing then, but Judgment: If you say *Not guilty*; then you shall be heard with your Evidence. Consider with your self. Plead *Not Guilty*: or confess, and say, you are *guilty*.

Sir Hard. Waller. *My Lord, It puts me upon a great con-*  
telt



*test with my self. I shall be very free to open my Heart —*

*Court.* Sir, you must plead *Guilty*, or *Not Guilty*.

*Sir Hard. Waller.* My Lord, my condition differs from others. I am a Stranger, I have been thirty years transplanted into Ireland; which has made me unacquainted with the affairs of the Law here.

*Court.* You must keep to the course of the Law. Either *Guilty*, or *Not guilty*. There is but one of these two Pleas to be made.

*Sir Hard. Waller.* I dare not say *Not guilty*.

*Court.* There are but these three things to be considered. Either you must say *Guilty*, which is *Confession*, and then there remains no more, but *Judgment*: or *Not Guilty*; and then you shall be heard: or *Judgment* will pass for your standing *Mute*, which is all one, as if you had confessed.

*Sir Hard. Waller.* In as much as I have said, I dare not say *Not Guilty*: I must say *Guilty*.

*Clerk.* You say, you are *guilty*. You confess the *Indictment*.

*Sir Hardress Waller.* Yes.

*Clerk. Thomas Harrison.* How saiest thou? Art thou *guilty* of the *Treason* whereof thou standest *Indicted*, and art now *Arraigned*? or *Not Guilty*.

*Tho. Harrison.* My Lords, have I liberty to speak?

*Court.* No more (at this time) than *Guilty*, or *Not Guilty*.

*Mr. Harrison,* You have heard the Direction before. We can give you but the same Rule. If you plead *Not guilty*; you shall be heard at large: if *Guilty*; you know what remains.

*Tho. Harrison.* Will you give me leave to give you my Answer in my own words.

*Lord Chief Bar.* There is no answer but what the Law directs. It is the same with you, as with all others, or as I would desire, if I were in your condition. You must plead *Not guilty*: or, if you confess *guilty*, there must be *Judgment* upon your confession. The same Rule for one, must be for another.

*Tho. Harrison.* You express your Rule very fair, as well to me, as this Gentleman (pointing at *Sir Hardress Waller*) but I have something to say to your Lordships, which concerns your Lordships as well as my self.

*Court.* You must hold, and plead *guilty*, or *Not guilty*. If you

you go otherwise ( as I told you before ) it will be, as if you pleaded not at all, and then *judgment* will pass against you. The Law gives the words, frames your Answer, it is none else, but the Laws, *Guilty*, or *Not Guilty*.

Tho. Harrison. My Lord, I have been kept close Prisoner near these three Moneths, that no body might have Access to me. Do you call me to give you a Legal Answer ; not knowing of my Trial, till nine of the clock last night, and brought away, from the Tower, to this place, at six of the clock this morning.

Court. You must give your direct Answer, *Guilty*, or *Not guilty*. You cannot say, it is sudden, or unprovided. You spend time in vain. You trouble the Court. You must plead *Guilty*, or *Not Guilty*. We must not suffer you to make Discourses there. You must plead either *Guilty*, or *Not Guilty*.

Clerk. Are you *guilty* ? or *Not guilty* ?

Tho. Harrison. I am speaking. Shall I not speak two words.

Court. If you will not put your self upon your Tryal, you must expect that course, that the Law directs.

Tho. Harrison. May it please your Lordships, I am now —

Clerk. Are you *guilty*, or *Not Guilty* ?

Tho. Harrison, I desire to be advised by the Law. This is a special Case.

Court. The Law allows nothing now ; but to plead *guilty*, or *Not guilty*.

Court. You must plead to your *Indictment*. If it be *Treason*, it cannot be justified ; if it be justifiable, it is not *Treason* : Therefore Plead *guilty* : or *not guilty*.

Tho. Harrison. Give me advice in this —

Clerk. Tho. Harrison, Are you *guilty* ? or *Not Guilty* ?

Tho Harrison, I would willingly render an account of all my Doings —

Clerk. Are you *Guilty* ? or *Not guilty* ?

Court. You have been acquainted with the Legal Proceedings. You never found in all your Experience, that any Prisoner at the Bar, for *Felony*, or *Treason*, was suffered thus to discourse, or to answer otherwise, then *guilty*, or *Not guilty*.

Clerk. Are you *guilty*, or *Not guilty* ?

Mr. Sol. Gen. I do beseech your Lordships, be may Plead. Per-  
adventure

*adventure he knows his case so well; that he thinks it as cheap to defie the Court, as submit to it.*

*Court.* We must enter your standing *Mute*: that's *Judgment*.

*Clerk.* Are you *guilty*, or *Not guilty*?

*Tho. Harrison.* *Will you refuse to give me any Satisfaction —*

*Court.* Are you *guilty*, or *Not guilty*?

*Tho. Harrison.* *Will you give me your Advice?*

*Court.* We do give you Advice. The Advice is: there is no other *Plea*, but *guilty*, or *Not guilty*. You shall be heard, when you have put your self upon your Trial.

*Clerk.* Are you *guilty*? or *Not guilty*?

*Tho. Harrison.* *You do deny me Councel, then I do plead Not guilty.*

*Clerk.* You plead *Not guilty*. Is this your *Plea*?

*Th. Harrison.* *Yes.*

*Clerk.* How will you be tried?

*Th. Harrison.* *I will be tryed according to the Laws of the Lord.*

*Clerk.* Whether by *God*, and the *Countrey*?

*Lord chief Baron.* *Now I must tell you: if you do not put your self upon your Countrey; you have said nothing.*

*Clerk.* How will you be tried?

*Th. Harrison,* *It is to put my self upon what you please to put me upon.*

*Court.* If you understand (you are not every man, you are versed in Proceedings of Law) you know, you must put your self upon the Trial of *God*, and your *Countrey*: if you do not; it is as good, as if you had said nothing.

*Th. Harrison,* *You have been misinformed of me ———*

*Court.* You have pleaded *Not guilty*. That, which remains, is, you must be tried by *God*, and the *Countrey*: otherwise, we must record your standing *Mute*.

*Clerk.* How will you be Tried?

*Th. Harrison* *I will be tried according to the ordinary course.*

*Clerk.* Whether by *God*, and the *Countrey*? You must speak the Words.

*Th. Harrison.* *They are vain words ———*

*Court.* We have given you a great deal of Liberty, and Scope; which

which is not usual. It is the course, and proceedings of Law; if you will be tried, you must put your self upon God, and the Countrey.

Clerk. How will you be tried ?

Th. Harrison. *I do offer myself to be tried in your own way, by God and my Countrey.*

Clerk. God send you a good deliverance.

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Clerk. *William Heveningham*, hold up your hand. How sayest thou, Art thou *Guilty* of the Treason, whereof thou standest indicted, and art now arraigned ? or *Not guilty* ?

Will. Heveningham. *Not guilty.*

Clerk. How will you be tried ?

Will. Heveningham, *By God, and the Countrey.*

Clerk. God send you a good deliverance.

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Sir Hard. Waller then presented his Petition to the Court, directed, To the King's Majesty, and the Parliament : which was received ; but not at this Court read. And then the three Persons aforesaid were dismissed.

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Clerk. Bring to the Bar, *Isaac Pennington Esq; Henry Marten Esq; Gilbert Millington Gentleman, Robert Tichbourn Esq; Owen Roe, Esq; and Robert Lilburn Gentleman*, Who were called, and appeared at the Bar, and, being commanded severally, held up their hands.

*The Indictment was read again, as to the former Persons.*

Clerk. *Isaac Pennington*, Hold up thy hand. How sayest thou Art thou *guilty* of the Treason, whereof thou standest Indicted, and art now Arraigned ? or *Not guilty* ?

Isaac Pennington. *Not guilty, my Lord.*

Clerk. How will you be tried ?

Isaac Pennington. *By God, and the Countrey.*

Clerk. God send you a good deliverance.

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Clerk. *Henry Marten*, How sayest thou ? Art thou *guilty* of the Treason, whereof thou standest Indicted, and art now Arraigned ? or *Not guilty* ?

Hen.

Hen. Marten, *I desire the benefit of the Act of Oblivion* —

Clerk. Are you *guilty* ? or *Not guilty* ?

Court. You are to understand, the Law is this, the same to you and every one ; You are to plead *Guilty*, or *Not guilty*. If you will demand the benefit of the *Act of Oblivion* ; it is a confession of being *Guilty*.

Hen. Marten. *I humbly conceive the Act of Indemnity* —

Court. You must plead *Guilty*, or *Not guilty*.

Hen. Marten. *If I plead, I lose the benefit of that Act.*

Court. You are totally excepted out of the *Act*.

Hen. Marten. *If it were so I would plead. My name is not in that Act.*

Court. *Henry Martin* is there.

Mr. Solicitor Gen. *Surely he hath been kept close Prisoner indeed, if he hath not seen the Act of Indemnity. Shew it him.*

Mr. Shelton opening the *Act*.

Court. How is it written ?

Clerk. It is *Henry Martin*.

*And then the Act was shewed to the said Mr. Marten.*

Hen. Marten. *Henry Martin ? My name is not so, it is Harry Marten.*

Court. The difference of the Sound is very little. You are known by that Name of *Martin*.

Hen. Marten. *I humbly conceive all Penal Statutes ought to be understood Literally.*

Clerk. Are you *Guilty*, or *Not guilty* ?

Hen. Marten. *I am not Henry Martin.*

Clerk. Are you *guilty*, or *Not guilty* ?

Court. Be advised. The effect of this Plea will be *Judgment*.

Here Mr Solicitor Gen. cited somewhat Parallel to this, in a Case formerly of *Baxter* ; where the Name was *Bagster*, with an *S* ; and adjudged all one, being of the same sound.

Clerk. Are you *guilty* ? or *Not guilty* ?

Hen. Marten. *My Lord, I desire Council. There will arise Matter of Law, as well as Fact.*

Court. You are *Indicted for Treason* ; for a Malicious, Traiterous compassing, and Imagining the King's Death. If you have

have any thing of Justification, plead *Not guilty* ; and you shall be heard : for, if it be Justifiable, it is not *Treason*. The *Rule* is, Either you must plead *Guilty*, and so confess ; or *Not guilty*, and put your self upon your Trial : there is no *Medium*.

Hen. Marten, *May I give any thing in Evidence before Verdict ?*

Court. Yes, upon your Trial, you may give any thing in Evidence, that the Law warrants to be *lawful Evidence*.

Clerk. Are you *Guilty*, or *Not guilty* ?

Court. Understand one thing ; because I would not have you mistaken : you cannot give in Evidence the *Misnomer* ; but any thing to the matter of *Fact*.

Hen. Marten. *I submit, and plead Not guilty.*

Clerk. How will you be tried ?

Hen. Marten. *By God, and the Countrey.*

Clerk. God send you a good deliverance.

Clerk. Gilbert Millington, Hold up your hand. How saiest thou ? Art thou *Guilty* of the *Treason*, whercof thou standest indicted, and art now arraigned ? or *Not guilty* ?

Gilb. Millington, *My Lord, I am an ancient man, and deaf. I humbly crave your Lordships pardon, to hear me a few words. I will promise, it shall be pertinent enough.*

Mr. Sol. Gen. Impertinent enough, he means.

Court. You must plead either *Guilty*, and so confess it, or *Not guilty*, and then you shall be heard any thing for your justification.

Clerk. Are you *Guilty* ? or *Not guilty* ?

Gilb. Millington. *I desire I may —*

Court. There is nothing, you can say, but *Guilty*, or *Not guilty*. All other Discourses turn upon your self.

Clerk. Are you *Guilty* ? or *Not guilty* ?

Gilb. Millington: *You might enlighten me in some scruples. Does my pause trouble you much ? I should not be long.*

Court. Your particelar case cannot differ from others.

Clerk. Are you *Guilty* ? or *Not guilty* ?

Gilb. Millington. *There are some things in the Indictment, that I can*

*I can say Not Guilty to. There are others, that I must deal ingenuously, and confess them.*

*Clerk.* Are you *Guilty*, in Manner, and Form, as you are indicted ? or *Not guilty* ?

*Gilb. Millington.* *Not guilty.*

*Clerk.* How will you be tried ?

*Gilb. Millington.* By God, and the Countrey.

*Clerk.* God send you a good deliverance.

*Clerk. Robert Tichbourn,* Hold up your hand, How saiest thou ? Art thou *Guilty* of the Treason, whereof thou standest indicted, and art now arraigned ? or *Not guilty* ?

*Tichbourn.* *My Lord, I have been a very close Prisoner, without any advice. I am altogether unable in Law to speak.*

*Court.* You know the Course hath been delivered to you by others, I will not trouble you with it. It is neither long, nor short : the Law requires your answer, *Guilty*, or *not guilty*.

*Tichbourn.* *Spare me but one Word. If, upon the Trial, there shall appear to be matter of Law, shall I have the liberty of Council for it ? if I shall be put, in my own Case, to plead matter of Law against those noble Persons, who plead on the other part : I shall but prejudice my self, and therefore I crave Council.*

*Court.* You must Plead *Guilty*, or *Not guilty*.

*Tichbourn.* *I have no Reason, nor Design to desplease you. I am sure, I am no waies able to plead with equalness, in Point of Law, with those Noble Gentlemen. To the Matter of Fact, this is my Plea ; in Manner, and Form, that I stand Indicted, I am Not guilty.*

*Clerk.* How will you be Tried ?

*Tichbourn.* By God, and the Countrey.

*Clerk.* God send thee a good Deliverance.

*Clerk. Owen Roe,* Hold up your hand. How saiest thou ? Art thou *Guilty* of the Treason, whereof thou standest Indicted, and art now Arraigned, or *Not Guilty* ?

*Owen Roe.* *My Lord, there hath been so much said already by others ;*

others ; I think I need say no more. In Manner, and Form, as I am now Indicted, I Plead *Not guilty*.

Clerk. How will you be Tried ?

Owen Roe. By God and the Countrey.

Clerk. God send you a good Deliverance.

Clerk. Robert Lilburn, Hold up your Hand. How saiest thou ? Art thou *Guilty* of the Treason, whereof thou standest Indicted, and art now Arraigned ? or *Not guilty* ?

Robert Lilburn. I desire, in regard that, being so close a Prisoner for twenty daies, that no body ha's been suffered to advise with me —

Lord Chief Baron. I must interrupt you. You must not mispend the time. Understand the Law. You must Plead *guilty*, or *Not guilty*.

Rob. Lilburn. Will you give me leave to desire Council before I Plead, to advise me touching my Plea. ?

Clerk. Are you *Guilty* ? or *Not guilty* ?

Rob. Lilburn. I desire Council —

Court. Take heed ; if that be your Answer, You desire Council and do not Plead, and that be Recorded, Judgment will pass against you. There is nothing to Plead ; but *Guilty*, or *Not guilty*. If *Not guilty* ; what you have to say will be heard.

Rob. Lilburn. If you over-rule me, I must submit.

Court. Do not let such Language fall from you : it is improper.

The Law gives us a Rule. The Prisoner must Plead *Guilty*, or *Not guilty*.

Rob. Lilburn. I say then, in Manner, and Form, as I am Indicted, I am *Not guilty*.

Clerk. How will you be Tried ?

Rob. Lilburn. By God, and the Countrey.

Clerk. God send you a good Deliverance.

\* Clerk. Bring to the Bar Adrian Scroop, John Carew, John Jones, Thomas Scot, Gregory Clement, and John Cook.

Who were brought accordingly, and, being commanded, severally held up their bands at the Bar.



*The Indictment was read to the Persons at the Bar, as before.*

*Clerk. Adrian Scroop, Hold up thy hand. How saiest thou? Art thou Guilty of the Treason whereof thou standest Indicted, and art now Arraigned? or Not guilty?*

*Adr. Scroop. My Lord, Not guilty.*

*Clerk. How will you be Tried?*

*Adr. Scroop. By God, and the Countrey.*

*Clerk. God send thee a good Deliverance.*

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*Clerk. John Carew, Hold up thy hand. How saiest thou? Art thou Guilty of the Treason, whereof thou art Indicted, and art now arraigned? or Not guilty?*

*John Carew. There is some special matter in that Indictment, that ought not to be before —*

*Court. Are you guilty, or Not guilty?*

*John Carew. Saving to our Lord Jesus Christ his Right to the Government of these Kingdoms —*

*Clerk. Are you Guilty? or Not guilty?*

*John Carew. I say, I am Not guilty?*

*Clerk. How will you be Tried?*

*John Carew. How would you have me?*

*Clerk. Will you be Tried by God, and the Countrey?*

*John Carew. I, if you will.*

*Clerk. You must say the words. How will you be Tried?*

*John Carew. By God, and the Countrey.*

*Clerk. God send you a good Deliverance.*

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*Clerk. John Jones, Hold up thy hand. How saiest thou? Art thou Guilty of the Treason, whereof thou standest Indicted, and for which thou art now Arraigned? or Not guilty?*

*John Jones. Not Guilty, my Lord.*

*Clerk. How will you be Tried?*

*John Jones. By God, and the Countrey.*

*Clerk. God send you a good Deliverance.*

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*Clerk. Thomas Scot, Hold up thy hand. How saiest thou? Art thou Guilty of the Treason, whereof thou standest Indicted, and*

and for which thou art now Arraigned ? or Not guilty ?

Th. Scot. Truly, I cannot call it Treason : and therefore I Plead Not guilty.

Clerk. How will you be Tried ?

Th. Scot. By God, and the Countrey.

Clerk. God send you a good Deliverance.

Clerk. Gregory Clement, Hold up your hand. How saiest thou ? Art thou Guilty of the Treason, whereof thou standest Indicted, and for which thou art now Arraigned ? or Not guilty ?

Greg. Clement. My Lord, I cannot excuse my self in many Particulars : but, as to my Indictment, as there it is, I Plead Not Guilty.

Clerk. How will you be Tried ?

Greg. Clement. By God, and the Countrey.

Clerk. God send you a good Deliverance.

Clerk. John Cook, Hold up thy hand. How saiest thou ? Art thou Guilty of the Treason, whereof thou standest Indicted, and for which thou art now Arraigned ? or Not guilty ?

John Cook. I humbly conceive, that this is now time to move for Counsel for matter of Law —

Court. You know too well the manner of the Court. Are you Guilty ? or Not guilty ?

John Cook. Not guilty ?

Clerk. How will you be Tried ?

John Cook. By God, and the Countrey.

Clerk. God send you a good Deliverance.

Clerk. Bring Edmund Harvey, Henry Smith, John Duns, Vincent Potter, and Augustine Garland, to the Bar.

Who were brought accordingly, and, being commanded, severally held up their Hands. The Indictment was read to them.

Clerk. Edmund Harvey, Hold up your hand, How saiest thou ? Art thou Guilty of the Treason, whereof thou standest Indicted, and for which thou art now Arraigned ? or Not guilty ?

*Edmund Harvey.* Not guilty, *my Lord.*

*Clerk.* How will you be Tried?

*Edmund Harvey.* By God, and the Countrey.

*Clerk.* God send you a good Deliverance.

*Clerk.* *Henry Smith.* Hold up thy hand. How saiest thou? Art thou *Guilty* of the Treason, whereof thou art *Indicted*, and for which thou art now Arraigned? or *Not guilty*?

*Henry Smith.* Not guilty, *my Lord.*

*Clerk.* How will you be Tried?

*Henry Smith.* By God, and the Countrey.

*Clerk.* God send you a good Deliverance.

*John Downs, Vincent Potter, Augustine Garland,* upon the Question, presently pleaded Not guilty, and put themselves on God, and the Countrey, to be Tried.

*Clerk.* Set to the Bar *George Fleetwood, Simon Meyn, James Temple, Peter Temple, Thomas Wait, Hugh Peters, Francis Hacker, and Daniel Axtel.*

*Who being at the Bar, held up their Hands according to Order; afterward the Clerk read the Indictment against the said Persons. Which being ended, he proceeded in this manner.*

*Clerk.* *George Fleetwood,* Hold up thy hand. What saiest thou? Art thou *guilty* of this horrid Treason, whereof thou standest *Indicted*, and art now Arraigned? or *Not guilty*?

*George Fleetwood.* My Lord, I came in upon his Majesty's Proclamation.

*Clerk.* Art thou *Guilty*? or *Not guilty*?

*George Fleetwood.* I must Confess, I am *Guilty*? (And thereupon he delivered a Petition in, to the Court; which he said was directed To his Majesty, and the Parliament; and the Court did receive it accordingly.)

*Clerk.* Set him aside.

*Clerk.* *Simon Meyn,* Hold up thy hand, What saiest thou? Art thou *guilty* of this horrid Treason, whereof thou standest *Indicted*, and art now Arraigned? or *Not guilty*?

*Sim. Meyn.* Not guilty. I came in upon His Majesty's Proclamation, *my Lord.*

*Clerk.*

*Clerk.* How wilt thou be Tried ?

*Sim. Meyn.* By God, *and the Country.*

*Clerk.* God send thee a good Deliverance.

*Clerk.* *James Temple.* Hold up thy hand. What saiest thou ?  
Art thou *guilty* of this horrid Treason, whereof thou standest  
*Indicted*, and art now Arraigned ? or *Not guilty* ?

*James Temple.* *Not guilty* ?

*Clerk.* How wilt thou be Tried ?

*James Temple.* By God, *and the Country.*

*Clerk.* God send thee a good Deliverance.

*Clerk.* *Peter Temple.* Hold up your hand. How saiest thou ?  
Art thou *guilty* of the Treason, whereof thou standest *Indicted*,  
and for which thou art now Arraigned ? or *Not guilty* ?

*Peter Temple.* *Not guilty.*

*Clerk.* How wilt thou be Tried ?

*Peter Temple.* By God, *and the Country.*

*Clerk.* God send thee a good Deliverance,

*Clerk.* *Thomas Wait,* Hold up your Hand. How saiest  
thou ? Art thou *guilty* of the Treason, whereof thou standest  
*Indicted*, and for which thou art Arraigned ? or *Not Guilty* ?

*Th. Wait.* *I desire to be heard a word, or two, —*

*Court.* There is a *Rule of Law*, which is set to us, and you;  
that, in all these *Cases*, you are to plead *Guilty*, or *Not guilty*.  
When you have Pleaded: if *Not Guilty*; you may speak what you  
will in its proper time.

*Clerk.* Are you *Guilty* ? or *Not guilty* ?

*Th. Wait.* *I pray let me be heard a word. I am very un-*  
*willing to spend time ; knowing you have a great deal of Business.*  
*I am very unwilling to deprive my self of my Native Right. I shall*  
*speak nothing, but that, which is Truth.*

*Court.* Do not Preface then ; but speak what you would  
say.

*Th. Wait.* *My Lord, my Case is different from the rest.*

*Court.* Whatsoever the *Case* be, you have no *Plea* to us ; but  
*guilty*, or *Not guilty*. We can go no other way. The *Law* sets  
our your *Plea*.

Th. Wait. *My Lord, I would speak one word. There was a Great Peer of this Nation Indicted at Northampton, within these two years, for killing a man. The Judges there —*

Court. You must Plead guilty, or Not guilty. Pray, who are you, that should take this upon you more then all the rest? You must go the ordinary way; guilty, or Not guilty. Are you guilty? or Not guilty? We do not intend to prevent any thing you have to say: but it must be proper.

Clerk. Are you guilty? or Not guilty.

Th. Wait. *I cannot say, I am Guilty.*

Court. How then?

Th. Wait. *I am Not guilty.*

Clerk. How wilt thou be Tried?

Th. Wait. *By God, and the Countrey.*

Clerk. Good send thee a good Deliverance.

Clerk. *Hugh Peters, Hold up thy hand. How saiest thou? Art thou guilty of the Treason, whereof thou standest Indicted, and for which thou art now Arraigned? or Not guilty?*

Hugh Peters. *I would not for ten thousand Worlds say, I am Guilty. I am Not guilty.*

Clerk. How will you be Tried?

Hugh Peters. *By the Word of God. (Here the People laughed.)*

Court. You must say, *By God, and the Countrey.* Tell him you, that stand by him, what he should say, if he doth not know.

Clerk. How will you be Tried?

Hugh Peters. *By God, and the Countrey.*

Clerk. Good send thee a good Deliverance.

Clerk. *Dan. Axtel, Hold up thy hand. What saiest thou? Art thou guilty of the Treason, whereof thou standest Indicted, and for which thou art now Arraigned? or Not guilty?*

Dan. Axtel. *May it please your Lordships, I desire to have the freedom of an English-man; that which is my Right by Law, and Inheritance; I have something to offer in point of Law.*

Clerk. Art thou Guilty? or Not guilty?

Dan.

Dan. Axtel. My Lords, *give me leave to speak.* For the Matter of the Indictment I conceive is upon the King's Death: that there is a Commission of Oyer and Terminet, for you to sit. But in regard it was in pursuance of an Act of Parliament, I conceive no Inferiour Court ought to judge of it. I desire Council: it being of great, and eminent Concernment in Law: That ever any Judges, or any Inferiour Court, should judge of the Powers, and Priviledges, of a Parliament: and I pray, that Council may be assigned me.

Clerk. Are you Guilty? or Not guilty?

Dan. Axtel. *If the Court over-rule me, and I shall not have my Liberty, as an English-man —*

Court. The Course of Law is this; No man can Justifie Treason. If the matter, which you have to say, be Justifiable, it is not Treason: if Treason; it is not Justifiable. Therefore you must go to the ordinary course of the Law. You must Plead Guilty, or Not guilty.

Dan. Axtel. *I can produce many Precedents —*

Court. Are you Guilty? or Not guilty? The Language is put into your Mouth. You have no other words to express your self by, at this time; but, Guilty, or Not guilty.

Dan. Axtel. *Judg Heath had Council assigned him upon the same Case.*

Court. That is very strange: the same case. What, was it for killing a King?

Dan. Axtel. *If the Court will over-rule me, I cannot help it.*

Mr. Solicitour Gen. It may be this Gentleman may be deceived by a Mistake. It may be he knows not the Law, which your Lordships may be pleased to acquaint him with: That, to stand Mute in High-Treason, is all one, as to Confess the Fact, and will have the same Sentence, and Condemnation upon them. as if they had Confessed it.

Lord Ch of Baron. *Then Ple tell you the Law, He, that doth refuse to put himself upon his Legal Trial of God, and the Countrey, is a Mute in Law: and therefore you must Plead Guilty, or Not guilty. Let his Language be what it will, he is a Mute in Law.*

Dan. Axtel. *I do not refuse it.*

Court. *Then say.*

Dan. Axtel. *I am Not guilty.*

Clerk. *How wilt thou be Tried?*

Dan. Axtel. *By twelve lawful men, according to the Constitutions of the Law.*

Court. *That is by God, and the Countrey.*

Dan. Axtel. *That is not lawful. God is not locally here.*

Clerk. *How wilt thou be Tried? You must say, By God and the Countrey.*

Dan. Axtel. *By God and the Countrey.*

Clerk. *God send you a good Deliverance.*

Lord Chief Baron. *Mr. Axtel, have you your Papers again?*

Dan. Axtel. *Yes, my Lord.*

Lord Chief Baron. *When your Indictment is read the second time, when you come to your Trial, you may take what Notes you please.*

*The Court then Adjourned to the same Place, till the next morning, seven of the Clock.*

*October 11th. 1660.*

*The Court being Assembled, the Keeper was commanded to set the Prisoners to the Bar.*

*Thomas Harrison, Adrian Scroop, John Carew, John Jones Gregory Clement, Thomas Scot, were brought to the Bar accordingly. After which Silence was Comanded.*

*Court. You, that are Prisoners at the Bar, if you, or any of you desire Pen, Ink, and Paper, you shall have it: and, if you, or any of you, will Challenge any of the Jury, you may, when they come to be Sworn, and that before they are Sworn.*

*Sir Thomas Allen being called, was desired to look on the Prisoner, and lay his Hand on the Book; his Oath was then read to him: viz. You shall well and truly try, and true deliverance make between Our Sovereign Lord the King, and the Prisoners at the Bar, whom you shall have in charge according to your Evidence. So help you God.*

*Sir Joshua Ash being next called, Mr. Scroop excepted against him. Sir Jeremy Whichcot, Baronet, being next to be Sworn, Mr. Harrison excepted against him.*

*James*



James Halley Esquire, being next to be Sworn, Mr. Scot excepted against him.

Court. If you will not agree (*speaking to the Prisoners*) in your Challenges; we must be forced to Try you severally.

Henry Mildmay, Esq; being called next, Mr. Scroop excepted against him.

Court. We must needs Try them severally; therefore set them all aside, but *Harrison*.

Court. Gentlemen, you, that are excepted, must not depart the Court.

Sir Joshua Ayn, being again called, was excepted against by Mr. Harrison.

Sir Jeremy Whichot, Baronet,	{ Being called again, were severally ex- cepted against by the Prisoner.
James Halley, Esq;	
Henry Mildmay, Esq;	
Christopher Abdy, Esq;	

Court. Mr. Harrison, You know the Law. You must say, I Challenge him.

Mr. Harrison. I shall, Sir.

Ralph Hartley being next called, and being very sick, humbly prayed to be excused by the Court, which was granted.

Arthur Newman was called next.

Mr. Harrison. May I not ask of what Quality he is?

Court. No, Sir. You are to Challenge him, or not to Challenge him.

Mr. Harrison. I Challenge him.

Thomas Blith was next called, and also Challenged.

(Here the People seemed to laugh.)

Mr. Harrison. My Lord, I must make use of my Liberty in this Case.

Court. God forbid.

Then Grover, Robert Clark, and Richard Whalley, were called, and by Mr. Harrison Challenged.

Court. Mr. Harrison. you know how many to Challenge. If you go beyond the Number, at your own peril be it.

Mr. Harrison. My Lord, pray tell me what it is.

Court. You say very well. God forbid, but you should know. You may Challenge five and thirty Peremptorily. If you



you go beyond, you know the Danger.

Mr. Harrison. *My Lord, I do not this to keep you off from the Business.*

*William Vincent, and Henry Twiford, were then called, and Challenged.*

*John Lisle was next called.*

Mr. Harrison. *I do not know him.*

Mr. Lisle. *Nor I you, Mr. Harrison. He was Sworn.*

*Thomas Franklin, Sworn.*

*Thomas Winter, Challenged.*

*Richard Nichol, Sworn.*

*Moyce, being sick, prayed Excuse: which was granted accordingly.*

*Richard Cheyney, Challenged.*

*Allen Parfear, Challenged.*

*Henry Edlin called.*

Mr. Harrison. *I Challenge him.*

Mr. Harrison. *Let him be Sworn.*

*Court, No, No. (Whereupon he was set aside.)*

Mr. Harrison. *If I have any Apprehension, or knowledg of them, that's the thing, that leads me to it, as touching this man, he may be Sworn.*

*Court. When he is Challenged, he cannot be recalled.*

Mr. Harrison. *I am content.*

*Samuel Greenhill, Sworn.*

*Thomas Bide, Challenged.*

*John Page, Challenged.*

*Richard Rider, Challenged.*

Mr. Harrison. *Left I may run into an Hazard, in making use of that Liberty, which the Law gives me in this Case; and having not taken Notice of any Persons Challenged; I mean, as to the Number: I desire your Officer, that takes Notice, may acquaint me with the Number.*

*Court. You shall know it; God forbid the contrary.*

*Edward Rolph was called next.*

Mr. Harrison. *Mr. Rolph is his Name? Let him be sworn.*

*Sworn.*

*Francis Beal, Challenged.*

John Kirk, Challenged.

Charles Pisfield, Challenged.

John Smith, Challenged.

Bell, Sworn.

Edward Franklin, Challenged.

William Whitcomb, Challenged.

Samuel Harris, Sworn.

John Collins, Challenged.

Thomas Snow, Sworn.

William Blunt, Challenged.

George Rigth, Challenged.

John Nichol of Finchley, Sworn.

Timothy Taylor, Challenged.

Thomas Fruin, Challenged.

Richard Abel, Challenged.

Thomas Morris, Sworn.

Ambrose Scudamore, Challenged.

Ralph Halsel, Challenged.

George Tirry, Challenged.

Court. You have Challenged Thirty three already.

Mr. Harrison. I pray the Names maybe read to me, to see, if it be so.

Court. When you come to Thirty five, you shall have the Names read.

John Galliard, Challenged.

Thomas Swallow, Challenged.

Court. Now read their Names to him.

Which were read accordingly. In all thirty five Challenged.

George Pickering was next called, and Sworn.

Then they were called over, who were admitted: viz.

Sir Thomas Allen, John Lisle, Thomas Franklin, Richard

Nichol, Samuel Greenbil, Edward Rolph, Bell, Samuel

Harris, Thomas Snow, John Nichol, Thomas Morris, George

Pickering: and Sworn.

Proclamation was then made.

If any man can inform my Lords, the King's Justices, the King's Serjeant, or the King's Attorney, before this Inquest be taken: let them come forth, and they shall be heard: for now the Prisoner stands

stands at the Bar upon his Deliverance. And all those bound by Recognizance to appear, let them come forth, and give their Evidence, or else to forfeit their Recognizance.

George Mastersen, James Nutley, Robert Coymore, Holland Simson, and William Jessop, Witnesses, were called.

Court. Gentlemen, that are not of the Jury, Pray, clear the Passage. The Prisoner is here for Life, and Death, let him have Liberty to see the Jury.

Clerk. Thomas Harrison, Hold up thy Hand.

Clerk. Look upon the Prisoner, you that are Sworn. You shall understand that the Prisoner at the Bar stands Indicted by the Name of Thomas Harrison, late of Westminster in the County of Middlesex, Gentleman; for that He, together with John Lisle, &c. (Here the Indictment was read) upon which Indictment he hath been Arraigned, and thereunto hath pleaded Not Guilty, and for his Trial hath put himself upon God, and the Countrey: which Countrey you are. Now your Charge is to enquire, whether he be Guilty of the High Treason, in Manner, and Form, as he stands Indicted, or Not guilty. If you find that he is guilty, you shall enquire, what Goods, and Chattels he had, at the time of committing the said Treason, or at any time subseque. If you find, that he is Not guilty; you shall enquire, whether he did fly for it: if you find, that he fled for it, you shall enquire of his Goods, and Chattels, as if you had found him Guilty: if you find, that he is Not guilty, nor that he did fly, you shall say so, and no more. And take heed to your Evidence.

Mr. Keeling Enforced the Charge at large. After whom Sir Henneage Finch, His Majesties Solicitor General, in these words.

**M**AY it please Your Lordships, We bring before your Lordships, into Judgment this day, the Murderers of a King. A man would think the Laws of God, and Men, had so fully secured these Sacred Persons, that the Sons of Violence should never approach to hurt them. For (My Lord) the very Thoughts of such an Attempt hath ever been presented by all Laws, in all Ages, and all Nations of the World, as a most unpardonable Treason. My Lord, This is that, that brought the two Eunuchs in the Persian-Court to their just Destruction.

Destruction: *Voluerunt insingere*; saies the Text: and yet that was enough to Attaine them. And so (My Lords) It was by the Roman Laws too, as Tacitus observes; *Quæ Deliberant, deservierunt*. To Doubt, or Hesitate, in a Point of Allegiance, is direct Treason, and Apostasie. And upon this Ground it is, that the Statute, upon which your Lordships are now to proceed, hath these expresse Words; *If a man doth Compose, or Imagine the Death of the King, &c.* Kings, who are God's Viceroyents upon Earth, have thus far a kind of Resemblance of the Divine Majesty; that their Subjects stand accountable to Them for the very Thoughts of their Hearts. Not, that any Man can know the Heart, save God alone; but because when the Wicked Heart breaks out into any open Expressions, by which it may be judged, 'tis the Thoughts of the Heart, which makes the Treason: the *Overt-Act* is but the Evidence of it.

My Lords, This Care, and Caution, is not so to be understood; as if it were the Single Interest of One Royal Person only. The Law doth wisely judge, and foresee, that upon the Life of the King depends the Laws, and Liberties, the Estates and Properties, the Wealth, and Peace, the Religion, and in Sum, the Glory of the Nation.

My Lords, This Judgment of the Law ha's been verified by a sad Experience: for when that Blessed King (whose Blood we are now making Inquisition for) was untimely taken away, Religion, and Justice both lay buried in the same Grave with Him: and there they had slept still; if the miraculous Return of Our Gracious Sovereign had not given them a new Resurrection.

My Lords, My Lord Coke, in his Comment upon this Statute, ha's one Conceit, which is somewhat strange; I am sure it is very new: he seems to think, that it would have added to the Perfection of this Law; if there had been a time limited for the Party to be accused. But certainly the work of this Day has quite confuted that Imagination. For here is a Treason, that has so long out-faced the Law, and the Justice of this Kingdom; that, if there had been any time of Limitation in the Statute, there would have been no Time, nor Place,

Place, left for Punishment. And, if this Treason had but once grown up to an Impunity, it might perhaps have drawn the Guilt of that Innocent Blood, and with it the Vengeance due to it, upon the whole Nation.

The Scope of this Indictment is, for the Compassing the Death of the King: the rest of the Indictment, as the Usurping Authority over the King's Person, the Assembling, Sitting, Judging, and Killing of the King, are but so many several *Overt-Acts* to prove the Intention of the Heart. We are not bound (under favour) to prove every one of these against every particular Person, who is Indicted: for he, that is in at one, is guilty in Law of all the rest, as much, as if he had struck the Fatal Stroke it self. Nay (under favour) if we can prove any other *Overt-Act*, besides what is laid in the Indictment, as the encouraging of the Souldiers to cry out, Justice, Justice; or Preaching to them to go on in this Work as Godly, and Religious; or any other act of all that Catalogue of Villanies, for which the Story will be for ever Infamous: this may be given in Evidence to prove the Compassing, and Imagining the King's Death. The conclusion of this Indictment alledges the Fact done to be to the great Displeasure of Almighty God, and to the great Disgrace of the People of England. A Truth so clear, and known; that it can neither be heightened by any Aggravation, or lessened by any Excuse.

As for the Fact it self, with the Manner of it, I shall not need to open it at large: for these things were not done in a Corner; every true English Heart still keeps within it self a bleeding Register of this Story: only (my Lords) in the way to our Evidence, with your Lordships favour, this I think, may be fit to be said.

First, for the year 1648. (if for that was the Fatal year of this King, and beyond that year we shall not now enquire) I say whatsoever, in the Year 1648. could have been done by a Parliament to save the Life of a King, was done in this Case.

They opened the way to a Treason in spight of the Army; and, while these Sons of Zeruiah, who were too hard for them, were engaged in Service, in the Remote Parts, they hastened the Treason as much, as was possible: the Debate upon His  
Majestic's

Majestie's *Concessions* were Voted a good ground for Peace : notwithstanding the *Remonstrances* of the Army still flew about their *Ears*, and notwithstanding the *Oppositions* of a fearful, and unbelieving Party of the *House of Commons* ; whom the Army had frighted into an *Awful*, and a *Slavish* Dependence upon them. And, when nothing else could be done for Him, they were so true to the *Obligations* they lay under, that they resolved to fall with Him : and did so. For the Army, who saw the *Treaty* proceed so fast, made as great haste to break it. They seize upon the blessed Person of our Sacred King, by Force, and bring Him to London; and here they force the *Parliament* ; shut out some *Members* , imprison others : and then called this wretched little Company, which was left, a *Parliament*. By this, and before they had taken upon them the Boldness to dissolve the *House of Peers*, they pass a *Law*, and Erect, forsooth ! an *High Court of Justice*, as they call it, a *Shambles* of Justice ; appoint *Judges*, *Advocates*, *Officers*, and *Ministers* ; sit upon the *Life* of the King. Now they *Speak out*, and *Expound* their own *Declarations* , and tell us what that was, which before they had demanded in obscure *Terms*, when they called for *Justice* against all *Delinquents*. Now they speak plainly what they mean, and call this blessed King, this glorious *Saint*, the *grand Delinquent* :

— *Hæc Acies vitulum faciura Nocentem est.*

My Lords, When they had thus proceeded to appoint their *Judges*, *Officers*, and *Court*, then they call this Person, their onely *Liege Lord* and *Sovereign* to the *Bar*, and, by a *formal* *Pegeantry* of Justice, proceed to *Sit* upon Him, *Arraign*, *Try*, *Sentence*, *Condemn*, and *Kill* (I had almost said *Crucifie*) Him, whom they could not but know to be their *King*. And all this against the clearest *Light*, the *sharpest* *Checks*, and most *thorough* *Convictions* of *Conscience*, that ever men resisted. And yet, in this moment of time, such was the *Majesty*, and *Innocence*, of our Gracious *Sovereign* ; that the *People* followed Him with *Tears* in their *Eyes*, and *Acclamations* in their *Mouths*, *God save the King* ; even then, when the *Souldiers* were ready to fire upon them, who did either look *Sadly*, or *Speak* *Affectionately*. And yet it will appear upon our *Ex-*  
dence

dence too; that so few of the very *Common Soldiers* could be brought to approve these *Proceedings*, or to cry out *Justice*; that their *Officers* were fain by *Money*, or *Blows*, or both, to bring a great many to it.

*My Lords*, The *Actors* in this *Tragedy* were many, very many, so many; that sure their Name is *Legion*, or rather many *Legions*. And certainly (*my Lords*) when we shall consider the *Thing*, that they have done, we cannot but look upon it, as a *Villany*, which had in it all the *Ingredients* to make it detestable, that it was possible for the *Counsel* of *Men*, or *Devils* either, to put together. But yet, if any thing can be of a deeper Dy, then the *Guilt* of that *Sacred Blood*, where-with they it and *Polluted*, me thinks, their *Impudence* should make them more odious, then their *Treason*. It was the destruction of *God's Anointed*, in the Name of the *Lord*. It was the Murther of a most blessed, and beloved *Prince*, in the Name of His *People*. Him, whom they had taken the transcendent Boldness to *imprison*, as the Author of the *War*, they put to *Death*, because He would have been the Author of our *Peace*: and that with so much *Scorn*, and *Indignity*, that some of them were not ashamed to spit in the Face of our *Lord*, and *Sovereign*. And when they had thus quenched the *Lights* of *Israel*: *Darkness*, and *Confusion*, did over-spread the face of the *Land*: many poor *Subj-cts* at *Home*, and some *Protestants* in *Foreign Nations*, at the very *News* of it fell down *Dead*; as if this excellent King had been in a *Natural*, as well as a *Religious* sence, the *Breath* of our *Nostrils*, the *Anointed* of the *Lord*, who was taken in their *Pits*. The *Judges*, *Officers*, and other *Immediate Actors* in this pretended *Court*, were in number about fourscore. Of these some four, or five, and twenty are dead, and gone to their own place. The *God* of *Recompences* hath taken the matter so far into His *Own Hands*: and who knows, but that it might be one dreadful part of His *Vengeance*, that they died in *Peace*? Some six, or seven of them, who are thought to have sinned with less *Malice*, have their *Lives* spared, indeed, but are like to be brought to a severe *Repentance* by future *Penalties*. Some eighteen, or nineteen, have fled from *Justice*, and wander to  
and



and fro, about the World with the Mark of *Cain* upon them, are *Perpetual trembling*, lest every *Eye* that sees them, and every *Hand* that meets them, should fall upon them. Twenty nine Persons do now expect your *Justice*. Amongst them the first, that is brought, is the *Prisoner* at the *Bar*, and he deserves to be the first; for, if any Person, now left alive ought to be stiled the *Conduclour*, *Leader*, and *Captain* of all this Work, that's the *Man*. He (*my Lord*) brought the King up a *Prisoner* from *Windsor*, but *how*, and in *what manner*, with how *little Duty*, nay, with how *little Civility* to a common Person, you will hear in time. He *Sate* upon Him, *Sentenced* Him, he *Signed* the *Warrant*, first to call *that Court* together, then the *bloody Warrant* to cut off His *Sacred Head*. Against him, as against all the rest, our *Evidence* will be of two *sorts*: *Witnesses*, *Viva voce*; that shall first prove to your *Lordships*, that every Person now in *Question* did sit in that *Court*, when their King stood, as a *Prisoner*, at the *Bar*. We shall prove that the *Precept*, by which this pretended *Court* was summoned, was not obeyed, and executed, till it had had the *hands*, and *seals*, of most of the pretended *Judges*: among the rest, the *hand* of the *Prisoner* at the *Bar* will be found there. We shall prove his *hand* to the *bloody Warrant*, for severing the *Sacred Head* of our *Blessed Sovereign* from the *Body*, and then some *Circumstances* of his *Malice*, and of his *Demeanour*. And after we have done with our *Witnesses Viva voce*, if we have occasion to use *Records* of *Parliament*, we shall shew them too; for we have the *Originals*, or authentick *Copies*. But now we shall proceed to our *Evidence*.

*Proclamation* was made for *Silence*.

*Sir Edward Turner*. My Lords, *The service of this Day* doth call to my *Memory* the *Story* of good King *Amaziah*. We read in *Holy Writ*, that his *Father*, King *Joash*, was murdered, and murdered by His own *Subjects*: but we read further, that, when *Amaziah* had regained the *Crown*, was settled in the *Government*, He slew those, that slew His *Father*. He did go down into *Edom*, the *Valley of Salt*, and there He did slay ten thousand. The work of this Day doth very much resemble that *Action*. Our Good, and Gracious King, His *Father* of blessed



*Memory, and our Father, His natural, and our politick Father, to whom our natural Allegiance was due was murdered, and by His own Subjects. But, My Lords, this was not a National Crime: and our Good, and Gracious Sovereign hath done us that Honour, and Right to vindicate us in Foreign Nations; and now He is come Home in Power, and Glory, He does continue in the same Mind: that's the Reason, we are not now slain by thousands; but that those Miscreants are gathered up here, and there, that did commit the Offence, and would have involved the Nation in a common Infamy.*

*Gentlemen of the Jury, Your time to enquire of this Matter is precious, more precious then my Words; else I would repeat to you the History of that Tragedy; at least that Summary, that was entred in the Black Book, or the Journals of that they then called a Parliament. It shall suffice to tell you, and that most truly; that it was but an handful of men in respect of the whole Nation, that did contrive, and design, this damnable and traitorous Plot, to subvert the Laws, and change the Government of this well-governed Nation. In prosecution of which they did cast abroad, and spread forth, Jesuitical Maxims, Damnable, and Diabolical Principles, to intoxicate the People; and, when their Heads were troubled, they were easily lead into Arms; where, after some time, they grew drunk with Successes: and when they had drunk too much of the Loyal Blood of the People, then they thirsted for the Royal Blood also. I do confess, we read in Stories, that Kings have before this time been murdered: some in our Nation; as King Richard the Second, and Edward the Third: and in other Nations. But the Actors of those Murthers were modest to these. They did it in Private; these in the Face of the Sun, and the People: but it was those People, Gentlemen, they had corrupted with Shares in their Robberies, and Villanies. They pretended it was in a way of Justice: but, you must know, no Justice can be executed upon the Person of the King; Touch not mine Anointed, saith God himself.*

*My Lords, I do read in the Roman Story; that both amongst them, and other Nations, there was no Law against Parricide. It was not thought that any man was so unnatural, and Devilish, to destroy his Father. But we do find amongst the Romans*

*such*

such a Fact was committed, and then they were at a loss to punish it. The way was this, that they found out: the Offendour they sewed into a Mail of Leather so close, that no Water could get in; when they had done, they threw him into the Sea: by this denoting; the Offendour was not worthy to Tread upon the Ground, nor to Breathe in the Air, nor to have the benefit of any of the four Elements, nor the use of any of God's Creatures: and so he starved.

Gentlemen, Parricide, and Regicide, differ not in Nature, but in Degree. Parricide is the killing of the Father of one, or a few, Persons; Regicide, the Killing the Father of a Countrey. What Punishment then is suitable to this Offence? Gentlemen, The Prisoner at the Bar is accused of this Offence, and now to be Tried by you: but, before we enter upon the Evidence, I must, with the leave of the Court, inform you; That, though the Indictment contains many Circumstances and Gradations, in the Treason; yet the Imagining, and Compassing the Death of our late Sovereign, is the Treason, to which we shall apply our Evidence: this being, both by the Common-Law, and by the Statute of the 25th of Edward the 3d. the Principal Treason to be enquired of. And the other Circumstances in the Indictment are but so many matters to prove the Overt-Act. The Consultations, the Assuming Power to Try, and Condemn the King. The Assault upon him, and the Fatal Blow, that was given him, are but so many Demonstrations, and open Acts, proving the first Treasonable Design of the Heart.

It will be enough for you, and so my Lords will tell you; if we prove the Treason it self, which is the Compassing, and Imagining the Death of the King: though we fail in some of the Circumstances laid in the Indictment. I do not speak this, as if we should fail in any: but it is not necessary to prove them all; if we prove any, you are to find the Prisoner Guilty. I am not willing to hold your Lordships too long in the Porch; but desire to descend into the Body of the Business: and so we shall call our Witnesses, and doubt not, but to prove, that this Man at the Bar was the first, and not the least of these Offendours.

Mr. George Masterfon was called.

Mr. Hamilton. When I was before your Lordships yesterday,

offered something very material in reference to the Jurisdiction of the Court; but you told me according to the Rule, I must Plead Guilty, or Not Guilty; and what I had to offer should be heard in its proper place. I now desire to know, whether it be proper now to deliver my self, before you proceed to the calling of Witnesses: for I would go the best way, and would not willingly displease you.

Lord Chief Baron. What was promised you yesterday, God forbid but you should have it. But I think it will be best for you to hear the Evidence; and then what you have to say, you shall be fully heard.

Mr. Harrison. I am content.

Whereupon George Masterfon, Stephen Kirk, Francis Hearn, William Clark, Robert Coismore, and James Nusley, were called, and sworn.

Council. Mr. Masterfon, Whether did the Prisoner at the Bar sit in that which they called the High Court of Justice, to sentence the King, or no? Pray, tell my Lords, and the Jury thereof, and what else you know of the matter.

Mr. Masterfon. Upon the Oath I have taken ( my Lords, and Gentlemen of the Jury ) I saw the Prisoner, Th. Harrison, sit in that, which they called The High Court of Justice, upon the 27th day of January, in the year 1648. to sentence the King.

Council. Was it the day the Sentence was passed against the King?

Mr. Masterfon. It was the day of the Sentence, the 27th. of Jan. 1648.

Council. Can you say any thing else?

Mr. Masterfon. I do ( Sir ) further remember, that, when the Clerk of the Court ( as he was called ) read the Sentence against the King, and said, It was the sentence of the whole Court; I saw the Prisoner at the Bar, together with others, stand up, to my apprehension, as Assenting to it.

Council. Was there not direction, that all should stand up, as Assenting?

Mr. Masterfon. I do not know that; but, when the Sentence was read, several of them did stand up, and he among the

the rest, as Assenting to the Sentence; as the Spectatours understood.

*Counsel.* Mr. *Clark*. What do you say to the same Question?

*Mr. Clark*. My Lords, and Gentlemen of the Jury, I remember I saw the Prisoner at the Bar sit several times in the Court of Justice, as they called it: particularly on the 23d, and 27th. of January, 1648. as I took notice of it in a Book.

*Counsel.* Was that the day of the Sentence?

*Mr. Clark*. Yes, my Lord.

*Coun.* What say you to that of the rising of those persons in the Court?

*Mr. Clark*. I remember they all rose; but I did not take particular notice then of the Prisoner.

*Counsel.* Mr. *Kirk*, You hear the Question. Did you see the Prisoner at the Bar, in Westminster-Hall, sitting upon the Bench in that, which they called the High Court of Justice, when the King stood Prisoner at the Bar there?

*Mr. Kirk*. My Lord, I did see the Prisoner at the Bar sit several days in that, which they called the High Court of Justice. I was there every day of their sitting.

*Counsel.* Do you remember he was there on the 27th of Jan. 1648?

*Mr. Kirk*. I do, Sir.

*Counsel.* Tell the Jury what was the Work there.

*Mr. Kirk*. It was Sentence. I did take the Names of all those Gentlemen, that did appear in the Court on that day, the 27th of Jan. 1648. and amongst the rest, I took a Note of that Gentleman's Name, as being present.

*Counsel.* Whereas these Gentlemen (Mr. *Masterson*, and Mr. *Clark*) have declared; that, as Assenting to the Sentence, they all stood up: Did you see them stand? And whether by Direction, or no?

*Mr. Kirk*. As for the Direction, I know nothing of it; but the Members then present in the Court (after Sentence was read) as far as my Eyes could perceive, stood up unanimously; I suppose, as Assenting to the Sentence.

*Court.* Mr. Nutley, Did you know the Prisoner at the Bar? Have you seen him sit in *Westminster-Hall* at any time upon the Bench, when the King was brought as a Prisoner to the Bar?

Mr. Nutley. My Lords, and Gentlemen of the *Jury*, I saw the Prisoner at the Bar several days sit there, amongst the rest of the Judges, as a Judge, I suppose. To the best of my remembrance, he sate there four days together.

*Court.* Was he there upon the day of the Sentence?

Mr. Nutley. I did take Notes, My Lord, that day in the *Court*, and I find he did sit that day.

*Court.* Do you know any thing more of the Prisoner at the Bar?

Mr. Nutley. Thus much I know concerning the Prisoner at the Bar, my Lord. The first day that they sate in publick, was (as I remember) the 20th. of Jan. 1648. Some few days afore that, there was a Committee, that sate in the *Exchequer-Chamber*, and of that Committee the Prisoner at the Bar was one of the Members. I do remember well, it was in the Evening, they were lighting of Candles; they were somewhat private. This Gentleman was there, I saw him: for through the kindness of Mr. *Phelps*, who was then Clerk to that Committee, I was admitted, pretending first to speak with the said Mr. *Phelps*, and that I had some Business with him, and so (as I said before) I was admitted into the Committee-Chamber. Being there, I did observe some Passages fall from the Prisoner at the Bar; the words were to this purpose. He was making a Narrative of some Discourses, that passed between his late Majesty and himself, in coming between *Windsor* and *London*, or *Hurst-Castle*, I know not well whether. My Lord, that Passage, that I observed to fall from him in that Discourse was this. He said, That the King, as He sate in the Coach with him, was importunate to know what they intended to do with Him.

Mr. Harrison. In the Coach was it?

Mr. Nutley. Yea, Sir, it was in the Coach. He told the rest of the company (as I said before) that the King asked, *What do they intend to do with me? Whether to murder me, or no?* And

And I said to Him, There was no such intention, as to kill Him, we have no such thoughts. But (saith He) the Lord hath reserved you for a publick Example of Justice. There is one word more, My Lords; and that is this, which I heard from this Prisoner at the Bar; That the reason, and end of their Meeting together, at that Committee, was concerning the Charge. So much I observed. It was concerning the Contracting of the Impeachment. I observed, that some found fault with the length of that, as it was drawn. They were offering some reasons to Contract it, and I heard this Prisoner at the Bar vent this expression, Gentlemen, It will be good for us to blacken Him, what we can; Pray, let us blacken Him: or words to that Purpose. I am sure Blacken was his word.

Mr. Wyndham. Mr. Nutley, you speak of an Impeachment. Against whom was that Impeachment?

Mr. Nutley. It was against His late Majesty, the King.

Council. And it was to draw up that Impeachment so, as to Blacken Him. Was it so?

Mr. Nutley. Yes, Sir.

Mr. Coymore sworn.

Mr. Wyndham. Did you see the Prisoner at the Bar sitting in that, which they called the High-Court of Justice, on the Day, when the King was Sentenced, or at any other time? Pray tell my Lords, and the Jury.

Mr. Coymore. My Lords, and Gentlemen of the Jury, I was in that, which they called the High-Court of Justice, three, or four times. I saw this Gentleman either once, or twice, sitting there.

Council. Do you know any thing more?

Coymore. No, really. I came onely to hear, and see, what they were doing, and I did there see him, I think, several Days: I am sure, once.

Council. Did you see him on the seven and twentieth of January 1648. sitting there, which was the Day of the Sentence?

Coymore. I cannot call that to Memory.

Council. Do you know of any Expressions, that the King should be an Example of Judgment?

Coymore. No, my Lords.

Mr. Windham. My Lord, in the next place, We shall shew that *Instrument*, that was made under the *Hand*, and *Seal*, of the Prisoner at the Bar, as well as others, for Execution of the King: that *Bloody Warrant*. But first we will ask this Witness another *Question*.

Council. Did you see the Prisoner at the Bar sit on the Bench, as an ordinary Spectator; or as one of the Judges?

Coytmore. He was in the Court, sitting amongst the rest of the Judges, as one of them.

Mr. Solicitor. My Lords, we will prove, that this Prisoner at the Bar was one of them, that took upon him the Conducting of the King, and that the King was in his Custody; and to the High-Court of Justice also.

The Lord Newburgh sworn.

Council, Pray, my Lord, give your self the Trouble, to raise your Voice, and to tell my Lords, and the Jury, what you know of the Prisoner at the Bar; the part, that he acted in bringing up the King.

Lord Newburgh. I was then living at his Majestie's Lodg at Bagshot, when the Prisoner at the Bar brought the King from Hurst-Castle to London. He was the Person, that commanded the whole Party: and when the King by the way went to Dinner, by his Order there were Centries set at every Door where He was. When the King had Dined, he carryed him to Windsor, and appointed severall of his Officers to ride close to the King, as He was riding, lest He should make His escape from them.

Council, That was an Imprisonment it self, and so a Treason.

Mr. Windham. My Lords, we shall now produce to you two Instruments, which were made, the one for Convening, and Summoning the Assembling of that, which they called the High-Court of Justice, and shew this Prisoner's Hand, and Seal, to that. And then shew you likewise that, which was the Consummating of all, that *Bloody Warrant* for Execution of His late Majesty of blessed Memory, with the *Hand*, and *Seal*, of the Prisoner at the Bar unto it, amongst others.

Mr. Solicitor. My Lords, it will be fit before this to give you an account, how we came by these Instruments.

Mr.



Mr. Jessop sworn.

Council. Shew to Mr. Jessop the *Warrant* for summoning that Court.

Mr. Solicitor. Mr. Jessop, pray tell my Lords, and the Jury, how you came by that *Instrument* you have in your Hand.

Mr. Jessop. May it please your Lordships, I, having the Honour to attend the *House of Commons*, the *House* was pleased to make an *Order*, that Mr. Scobel should deliver into my hands all such *Books*, and *Records*, *Papers*, and other things, as did belong to the *House of Commons*; and, in pursuance of that *Order*, I did receive, amongst other things, this *Instrument*, as a thing, that had been formerly in his hands, as Clerk of the *House of Commons*.

Mr. Solicitor. We desire it may be read, my Lords.

Court. Pray first, prove his Hand.

Mr. Harrison. I desire to know what is offered to be Read.

Court. It is a *Warrant* that you Sealed, amongst other pretended Judges of your *Hight Court of Justice* (as you called it) for Trial of the King, for Summoning that Court.

Council. Mr. Kirk. Have you seen the Hand-writing of the Prisoner at any time?

Mr. Kirk. I have very often seen it, and am well acquainted with it; and, so far as it's possible a man can Testifie touching the Hand of another Person, I do verily believe this to be his Hand.

Council. How came you to be acquainted with his Hand?

Mr. Kirk. As he was a *Member* of the *House of Commons*, and my *Employment* having relation thereto, I have seen him set his Hand several times.

Mr. Farrington Sworn.

Council. Do you believe that this is the Hand-writing of the Prisoner at the Bar: (*The Instrument being shewed him.*)

Mr. Farrington. I did not see him write it, my Lords; but I believe it to be his: for I have often seen his Hand-writing. It is his hand, so far as possibly a man can know any Person's hand, that did not see him write.

Mr. Harrison. I desire to see the *Instrument*. Which being shew'd



shew'd to him ; he said, *I believe it is my own Hand.*

*Council.* That's the Warrant for summoning that Court, that he owns his *hand* too.

*Court.* Shew him the other *Instrument.*

*That being for Execution of the Sentence ; it being shew'd him,*

*Mr. Harrison.* *I do think this is my hand too.*

*Council.* If you think it, the *Jury* will not doubt it. That's the *Bloody Warrant* for Execution. And we desire they may be both read.

*Mr. Harrison.* My Lords, do these *Learned Gentlemen* offer these, as being any *Records,*

*Council.* No, but as your own *hand-writing.*

*Mr. Harrison.* If you do not read it as a *Record,* I hope your Lordships will not admit of any thing of that kind against me.

*Council.* He knows, that a *Letter* under his *hand,* and *Seal,* may be read in a *Court.* We do not offer it as a *Record ;* but prove it by *Witnesses,* that it is your *hand-writing.*

*Court.* You have Confessed these to be your *hands.* Whether they are *Records,* or no ; whether *Papers,* or *Letters :* they may be read against you. You signed the *Warrant* for *Convening* together those, which you called *The High Court of Justice,* and you signed the other *Warrant* for putting the King to Death. You do Confess these two things. We do not see what further use may be made of them.

*Court.* You might observe, how the *Indictment* was for the *Imagining, Compassing, and Contriving* the King's Death. To prove that, there must be some *Overt-Act,* and a *Letter* under the *Partie's Hand* is a sufficient *Overt-Act* to prove such *Imagination :* to that end these are used.

*Mr. Harrison.* I do not come to be denying any thing, that in my own *Judgment,* and *Conscience,* I have done, or *Committed ;* but rather to be bringing it forth to the *Light.*

*Court.* Sir, you must understand this by the way, this you must take along with you ; That these are read, not as any thing of *Authority* in themselves, or as used to any other purpose, but as an *Evidence* of the *Fact* against you. Take that along with you.

(*The two Bloody Warrants for Trial, and for Execution of His Majesty were here read, the later of which is as followeth.*)

*At the High Court of Justice for the Trying, and Judging of Charles Stuart, King of England Jan. 29. 1648.*

**W** Hereas *Charles Stuart, King of England, is, and standeth, Convicted, Attainted, and Condemned of High Treason, and other High Crimes; and Sentence upon Saturday last was pronounced against him by this Court; to be put to Death, by the severing his Head from his Body; of which Sentence, Execution yet remaineth to be done: These are therefore to will, and require you, to see the said Sentence executed in the open street before White-hall, upon the morrow, being the 30th. day of this instant Moneth of January, between the hours of ten in the Morning, and five in the Afternoon of the same day, with full effect. And for so doing this shall be your sufficient Warrant. And these are to require all Officers, and Souldiers, and other the good People of this Nation of England, to be assistant unto you in this service. Given under our Hands, and Seals.*

*To Colonel Francis Hacker, Colonel Hunk, and Lieutenant-Colonel Phayre, and every of them.*

*Sealed and subscribed,*

**BY**

*John Bradshaw, Lord President.*

*Jo. Hewson.*

*Per. Pelham.*

*Thomas Grey.*

*Oliver Cromwel.*

*Edward Whalley.*

*John Okey.*

*Jo. Danvers.*

*Mich. Livesey.*

*Jo. Bonreghier.*

*Hen. Ireton.*

*Thomas Maleverer.*

*Jo. Blakestone.*

*Jo. Hutchinson.*

*Will. Goff.*

Thomas Pride.  
 Hen. Smith.  
 Peter Temple.  
 Tho. Harrison.  
 Isaac Ewer.  
 Val. Wauton.  
 Simon Meyn.  
 Tho. Horton.  
 Jo. Jones.  
 Jo. Moor.  
 Hardress Waller.  
 Gilbert Millington.  
 Geo. Fleetwood.  
 Jo. Alured.  
 Rob. Lilburn.  
 Wil. Say.  
 Rich. Dean.  
 Rob. Tichbourn.  
 Hum. Edwards.  
 Dan. Blagrove.  
 Owen Roe.  
 Will. Puefroy.

Adrian Scroop.  
 James Temple.  
 Aug. Garland.  
 Edmond Ludlow.  
 Hen. Marten.  
 Vincent Potter.  
 Will. Constable.  
 Rich. Ingoldsby.  
 Will. Cawley.  
 Job. Barkstead.  
 Anth. Stapeley.  
 Greg. Norton.  
 Tho. Challoner.  
 Tho. Wogan.  
 Jo. Ven.  
 Greg. Clement.  
 Jo. Downs.  
 Tho. Wayt.  
 Tho. Scot.  
 Jo. Carew.  
 Miles Corbet.

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Mr. Wyndham. Gentlemen of the Jury; We have done our Evidence; and you must know, Gentlemen, that the principal Point of the Indictment is for Compassing, Imagining, and Contriving the Death of his late Majesty of Glorious Memory. There lies the Treason. So saies the Statute of the 25th. Ed. 3d. It hath nothing of Killing the King there, but of Imagining, and Compassing the Death of the King. The going about it, that's the Treason: as hath been learnedly opened to you. The rest are but Overt-Acts. If there be such an Imagination; or Compassing the Death of the King once declared, though no fruit at all follow, it is Treason. Here certainly you have a very full Evidence given: We shew you a Consultation; this is one Overt-Act, which would do the work, if there were nothing else. I must tell you (and that with Sub-

Submission to my Lords, the *Justices* ) if they had *advised*, and gone no further : that had been Treason in the *Letter* of the Law. They Convened, and met together, and suppose then, they had absolved, and acquitted him ; do you think they had absolved themselves from Treason ? With reverence be it spoken : if they had *acquitted* him, they had been guilty of Treason. *Assuming a Power* to put the King to Death, is an *Overt-Act*, declaring such an Imagination, You see this Prisoner was no ordinary Actor in it : his Hand is in at all Games, Taking of Him, Imprisoning of Him, bringing Him to London, and setting Guards on Him. You see also his Malice, *Let us Blacken Him* ; for they knew His *Innocency* would Shine forth ; unless it was *blackened* by their Imputations. He Sate many times, as you hear, and *Sentenced* Him ; and Assented to that *Sentence* by standing up, and likewise by Concluding the *Catastrophe* of that sad beginning of Sufferings, his making a *Warrant* for his Execution, and accordingly you know what did follow : I think a clearer *Evidence* of a *Fact* can never be given, then is for these things.

(Here the Spectatours *Hummed*.)

Lord Chief Baron. Gentlemen, This *Humming* is not at all becoming the Gravity of this Court. Let there be free-speaking by the Prisoner, and Counsel. It is more fitting for a Stage-Play, then for a Court of Justice.

Mr. Harrison. *It is now time*, my Lords, *to offer what I have to say*. Have these Learned Gentlemen offered what they will say ?

Counsel. We have no more, till he hath given us occasion : not for *Evidence* of the *Fact*.

Mr. Harrison. My Lords, The matter, that hath been offered to you, as it was touched, was not a thing done in a Corner. I believe the sound of it hath been in most Nations. I believe the Hearts of some have felt the Terrours of that Presence of God, that was with his Servants in those days : (However it seemeth good to him, to suffer this *Turn* to come on us) and are Witnesses, that the things were not done in a Corner. I have desired

desired, as in the sight of him, that searcheth all hearts, whilst this hath been done, to wait, and receive from him Convictions upon my own Conscience, though I have sought it with Tears many a time, and Prayers, over and over, to that God, to whom you, and all Nations, are less than a Drop of water of the Bucket : and to this moment, I have received rather Assurance of it, and that the things that have been done, as astonishing on one hand; I do believe, ere it be long, it will be made known from Heaven ; There was more from God, than men are aware of. I do profess, that I would not offer, of my self, the least Injury to the poorest Man or Woman that goes upon the Earth. That I have humbly to offer is this to your Lordships ; You know what a Contest hath been in these Nations for many years. Divers of those that sit upon the *Bench*, were formerly as Active——

*Court. Pray Mr. Harrison, do not thus Reflect on the Court. This is not so the Business,*

*Mr. Harrison.* I followed not my own Judgment. I did what I did, as out of Conscience to the Lord. For when I found those that were as the Apple of mine Eye, to turn aside, I did teach them, and suffered Imprisonment many years. Rather, then to turn, as many did, that did put their Hands to this Plough : I chose rather to be separated from Wife, and Family, than to have Compliance with them : though it was said, *Sit at my Right Hand*, and such kind of Expressions. Thus I have given a little poor Testimony, that I have not been doing things in a Corner, or from my self. May be, I might be a little mistaken : but I did it all according to the best of my understanding ; desiring to make the Revealed Will of God in his *Holy Scriptures*, as a guide to me. I humbly conceive, That, what was done, was done in the name of the *Parliament of England*, that what was done, was done by their Power, and Authority, and I do humbly conceive, it is my Duty to offer unto you in the beginning, that this *Court*, or any *Court* below the *High Court of Parliament* hath no Jurisdiction of their Actions. Here are many Learned in the Law, and, to shorten the Work, I desire  
I may

I may have the help of *Council* Learned in the Laws, that may in this matter give me a little assistance to offer those Grounds, that the Law of the Land doth offer. I say what was done was done by the Authority of the *Parliament*, which was then the *Supreme* Authority, and that those, that have Acted under them, are not to be questioned by any Power less than them. And, for that I conceive there is much out of the Laws to be shewed to you, and many *Presidents* also in the *Case*. Much is to be offered to you in that, according to the Laws of the Nations, that was a due *Parliament*. Those *Commissions* were issued forth, and what was done, was done by their Power. And whereas it hath been said, we did Assume, and Usurp an Authority ; I say, this was done rather in the Fear of the Lord.

*Court*. Away with him. Know where you are, Sir. You are in the Assembly of *Christians*. Will you make God the Author of your Treasons, and Murthers ? Take heed, where you are. *Christians* must not hear this. We will allow you, to say for your own *Defence* what you can. And we have, with a great deal of Patience, suffered you to sally out : wherein you have not gone about so much for Extenuation of your Crimes, as to Justifie them, to fall upon others, and to Blaspheme God, and commit a new *Treason*. For your having of *Council* ; This is the reason for allowing of *Council* ; when a man would Plead any thing, because he would Plead it in *Formality*, *Council* is allowed. But you must first say in what the Matter shall be, and then you shall have the *Court's* Answer.

Lord *Finch*. Though my *Lords* here have been pleased to give you a great Latitude : this must not be suffered ; that you should run into these damnable Excursions ; to make God the Author of this damnable *Treason* Committed.

Mr. *Harrison*. I have two things to offer to you, to say for my *Defence* in Matter of Law. One is ; That this, that hath been done, was done by a *Parliament* of England, by the *Commons* of England assembled in *Parliament* : and that being so, whatever was done by their Commands, or their Authority, is  
not

not questionable by your *Lordships*; as being (as I humbly conceive) a Power Inferiour to that of an *High Court of Parliament*. That's one. A second is this; That what therefore any did in obedience to that Power, and Authority, they are not to be questioned for it. otherwise we are in a most miserable Condition, bound to obey them, that are in Authority, and yet to be punished, if obeyed. We are not to Judge, what is lawful, or what is unlawful. *My Lords*, Upon these two Points I do desire, that those, that are Learned in the Laws, may speak too, on my behalf. It concerns all my Countreymen. There are *Cases* alike to this, you know, in King *Richard the Second's* Time, wherein some Question had been of what had been done by a *Parliament*; and what followed upon it, I need not urge in it. I hope it will seem good to you, that *Council* may be assigned; for it concerns all my Countreymen.

*Council*. You are mistaken, if you appeal to your Countreymen. They will cry you Out, and shame you.

Mr. Harrison. *May be so, my Lords, some will: but I am sure others will not.*

Mr. Solicitor Gen. These two Points, *my Lords*, are but one, and they are a new Treason at the Bar: for which he deserves to dy, if there were no other *Indictment*. It is the Malice of his heart to the Dignity, and Crown of *England*. I say this is not matter, for which *Council* can be assigned. *Council* cannot put into Form that, which is not Matter Pleadable it self. It is so far from being true, that this was the Act of the Supreme *Parliament* of the People of *England*, that there was nothing received with more Heart-bleeding, than this Bloody Business. But that the World may not be abused by the Insinuations of a man, who acts, as if he had a Spirit, and in truth is possessed, I will say; That the *Lords*, and *Commons*, are not a *Parliament*: That the *King*, and *Lords*, cannot do any thing without the *Commons*; Nor the *King*, and *Commons*, without the *Lords*; Nor the *Lords*, and *Commons*, without the *King*, especially against the *King*. If they do, they must answer it with their Head: for the *King* is not accountable to any Coercive Power. And for the Prisoner to Justifie his Act, as if it were the Act



of the *Commons* of *England*, he is very much to be reproved, Shall he pretend, that one House, nay the eighth part of a *House* (for so it was) can Condemn a King: when both *Houses* cannot condemn one man in spight of the King? I desire, my *Lords*, it may pass with a due Reproach, and a Sentence upon it.

Lord Chief Baron. It is true, your Questions are but one Point. You pretend the *Parliament's* Authority; and, when you come to speak of it, you say the *Commons* of *England*. They were but one *House* of *Parliament*. The *Parliament*? what is that? It is the *King*, the *Lords*, & the *Commons*. I would fain know of you, where ever you read, by the light you say you have in your Conscience, that the *Commons* of *England* were a *Parliament* of *England*, that the *Commons* in *Parliament* used a Legislative power alone. Do you call that a *Parliament*, that sate, when the House was *Purged*, as they call it, and was so much under the Awe of the *Army*, who were then, but forty, or forty five at most? Then you say, It was done by Authority of them. You must know, where there is such an Authority (which indeed is no Authority) he that confirms such an Authority, he Commits a double offence; therefore consider what your *Plea* is: If your *Plea* were doubtfull, we should, and ought, and would, our selves, be of *Council* for you. That, which you speak concerning *Conviſion* of your own Conscience, remember, that it is said in *Scripture*, that they shall think they did God good service, when they slay you, as it is in *St. John*. He hath a great deal of Charity, that thinks that what you did was out of a Conscientious Principle. It was against the Light of noon-day, and common practice. You make your self a *Solicitor* in the Business. Let us blacken him, as much as we can. I have not touched at all upon the Evidence. I will not urge it now. I say you justify it upon *Conviſions* of Conscience, and pretend it upon Authority. A thing never known, or seen, under the Sun; that the *Commons*, nay a few *Commons* alone, should take upon them, and call themselves the *Parliament* of *England*. We have been cheated enough by Names, and Words: there is no colour for what you say. I do think, and hope, my Brethren will speak to this Case, that none of us do own that Convention, whatsoever

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it,



it be, to be the *Parliament of England*. There was another aggravation : at this Time, that this Pretended Authority usurped that Power ; the *Lords* were then sitting. You had not taken this usurped Power to dissolve these *Lords*. No ; you did this Act in dispiight of the *Lords*, you had sent up an *Ordinance* to the *Lords*, and they rejected it, and thereupon these *Members* took it upon themselves. Amongst those there were some *Negatives*, and those *Members* were under the Awe, and Power of your *Forces* at that time. What you Plead, the *Court* are of Opinion, tends to the subversion of the *Laws*; for you to usurp Power over the People without their Consents, to call this the *People* ; We never knew the like before. But the *Parliament of England* was the *King, Lords and Commons*. For you to speak of this Power, and Justifie this Power, is an Aggravation adding one Sin, and Treason, to another. We shall tell you, that neither both *Houses of Parliament*, if they had been there, not any single *Person, Community*, not the *People*, either *Collectively*, or *Representatively*, had any colour to have any Coercive Power over their King. And this *Plea*, which you have spoken of, it ought to be over-ruled, and not to stand good.

Mr. Annesley. I do the more willingly speak to this Business ; because I was one of those, that should have made up that *Parliament*, that this Prisoner pretends to. I was one of that *Corrupt Majority* (as they called it) that were put out of the *House*. He cannot forget, that at that time there were *Guards* upon both *Houses of Parliament* to attend them, that were of their own appointment : and that those *Guards* were forcibly removed by the Prisoner at the Bar, and his Fellows : and other *Guards* put there, who instead of being a Defence unto them, when those *Commons* stood at the Door, were by them threatned. Yet the *Lords, and Commons of England in Parliament Assembled*, a full House of *Commons*, did resolve, notwithstanding what was aforesaid ; that the Treaty in the Isle of *Wight* was a *Ground for Peace*. Afterwards the Major part of the *House of Commons*, having resolved on this, sent it up to the *Lords* : that very day when they were Adjourned, there were *Forces* drawn down to the *House of Commons Door*, and  
none

none suffered to come into the *House*, but those, that they pleased. All those, that had a mind for Peace, that minded their Duty, and Trust, and Allegiance to their King, were seized on by this Gentleman, and his Fellows. When this was done, what did he, and those Fellows do? They sate, and put a check upon all, that should come in. None must come in, but those, that would renounce their Allegiance, and Duty to their King, and the People, for whom they served, and then declared against that Vote, which had been passed upon *Debate* of twelve, or fourteen hours, and then to call this an *House of Commons*, nay the *Supreme Authority of the Nation*, he knows is against the Laws of the Land. For the *House of Commons* alone cannot so much, as give an *Oath*. It hath not power of *Judicature* of Life, and Death: this he knows well to be according to the Laws of *England*. He knows, that no Authority, less then an *Act of Parliament*, can make a Law, and he knows an *Act of Parliament* must be passed by the King, Lords, and Commons. I wonder much to hear a Justification in this kind by one, that knows the Laws of *England* so well. There will none of the Court allow, that that was a *Parliament*. The Majority of that *House* did all disavow it. These things have been already discoursed of: I shall onely say, that he, knowing the Laws so well, I hope, he shall suffer for transgression thereof.

*Mr. Hollis.* You do very well know, that this, that you did, this horrid, detestable Act, which you Committed, could never be perfected by you; till you had broken the *Parliament*. That *House of Commons*, which you say gave you Authority, you know, what your self made of it, when you pulled out the *Speaker*. Therefore do not make the *Parliament* to be the Author of your black Crimes. It was innocent of it. You know your self, what Esteem you had of it, when you broke, and tore it in sunder, when you scattered, and made them hide themselves, to preserve them from your Fury, and Violence. Do not make the *Parliament* to be the Author of your Crimes. The *Parliament* are the three *Estates*. It must not be admitted, that one *House*, part of the *Parliament*, should be called the *Supreme Authority*. You know what that *Rump*, that you left, did; what Laws they made. Did you go home

to advise with your Countrey, that chose you for that Place ? You know, that no *Act* of *Parliament* is binding ; but what is *Acted* by *King*, *Lords*, and *Commons*. And now, as you would make *God* the Author of your *Offence*, so likewise you would make the *People* guilty of your *Opinion*. But your *Plea* is overruled.

*To which the Court assented.*

Mr. Harrison. *I was mistaken a little. Whereas it was said, the Points were one : I do humbly conceive, they were not so. I say what was done, was done in Obedience to the Authority. If it were but an Order of the House of Commons, thus under a Force, yet this Court is not Judge of that Force. I say, if it was done by one Estate of Parliament, it is not to be questioned.*

Court. It was not done by one *Estate*. They were but a *Part* ; nay but an eighth *Part*.

Denz. Hollis. It was not an *House of Commons*. They kept up a *Company* by the power of the *Sword*. Do not abuse the *People* in saying, It was done by the *Supreme Power*.

Council. My Lord ; if it were an *House of Commons*, neither *House of Commons*, nor *House of Lords*, nor *House of Lords and Commons* together : no *Authority* upon *Earth* can give *Authority* for *Murthering the King*. This, that he alledgeth, is *Treason* : my Lord, this, that is said, is a clear *Evidence* of that, which is charged : there is only this more in it, he hath done it, and, if he were to do it again, he would do it.

Lord Chief Baron. It is clear as the *Noon-day*, that this was not the *House of Commons*. Suppose it had been an *House of Commons*, and full, and suppose, ( which far be it from me to suppose ) they should have agreed upon such a *Murtherous Act* : for the *House of Commons* to do such an *Act*, it was void in it self ; nay, any *Authority*, without the *House of Lords*, and *King*, is void. You plead to the *Jurisdiction* of the Court, whether

whether we should Judge it, or no. Yes, I tell you, and proper too. We shall not speak what Power we have. The Judges have Power, after *Laws* are made, to go upon the *Interpretation* of them. We are not to judge of those things, that the *Parliament* do. But when the *Parliament* is *purged* (as you call it) for the *Commons* alone to Act, for you to say, that this is the *Authority of Parliament*, it is that, which every man will say, *Intrenches highly upon his Liberty, and Priviledge*: And what you have said to your Justification, what doth it tend to, but as much as this, *I did it, justifie it, and would do it again*: which is a new Treason. The greatest Right, that ever the *House of Commons* did claim, is but over the *Commons*. Do they claim a particular Right over the *Lords*? Nay, over the *King*? Make it out, if you can: but it cannot possibly be made out. What you have said doth aggravate your Crimes. It is such an approvement of your Treason, that all *Evidences* come short of it. *King, Lords, and Commons* is the Ground of the *English-Law*. Without that no *Act of Parliament* binds.

*Justice Mallet*. I have been a *Parliament-Man* as long, as any man here present, and I did never know, or hear, that the *House of Commons* had *Jurisdiction* over any, saving their own *Members*: which is as much, as I will say concerning the *Parliament*. I have heard a *Story* of a *Mute*, that was born *Mute*, whose Father was slain by a Stranger, a man unknown. After twenty years, or thereabouts, this *Mute-man* fortun'd to see the Murtherer of his Father: and these were his Words, *Oh! here is he, that slew my Father*. Sir, The *King is the Father of the Country*; *Pater Patria*: so saith Sir *Edward Coke*. He is *Caput Reipublicæ*, the *Head of the Common-wealth*. Sir, What have you done? Here you have cut off the *Head* of the whole *Common-Wealth*, and taken away Him, that was our *Father*, the Governour of the whole Countrey. This you shall find *Printed and Published* in a Book of the greatest *Lawyer*, Sir *Edward Coke*. I shall not need, *my Lord*, to say more of this Business. I do hold the Prisoner's *Plea* vain, and unreasonable, and to be rejected.

*Justice Hide.* I shall not trouble you with many Words. I am sorry, that any man should have the Face, and Boldness, to deliver such words, as you have. You, and all, must know, That the *King* is above the *Two Houses*. They must propose their *Laws* to him. The *Laws* are made by Him, and not by *Them*: by their consenting; but they are His *Laws*. That which you speak as to the *Jurisdiction*; you are here *Indicted* for High *Treason*, for you to come to talk of *Justification* of this by *Pre- tence* of Authority, your *Plea* is naught, illegal, and wicked, and ought not to be allowed. As to having of *Council*; the *Court* understand what you are upon: *Council* is not to be allowed in that *Case*, and therefore your *Plea* must be over- ruled.

*Mr. Justice Twisden.* I shall agree with that, which many have already said; onely this, You have eased the *Jury*; you have confessed the *Fact*. I am of the same Opinion, that you can have no *Council*: therefore I over-rule your *Plea*, if it had been put in never so good *Form*, and *Manner*.

*Earl of Manchester.* I beseech you, *my Lords*, let us go some other way to work ———

*Sir William Wild.* That which is before us is, Whether it be a matter of *Law*, or *Fact*? For the matter of *Law*, your Lordships have declared what it is, his *Justification* is as high a *Treason* as the former. For matter of *Fact*, he hath confessed it. I beseech you, *My Lord*, direct the *Jury* for their *Verdict*. This Gentleman hath forgot their *Barbarousness*: they would not hear their *King*.

*Court.* No *Council* can be allowed to Justifie a *Treason*: that this is a *Treason*, you are *Indicted* by an *Act* of the 25th. of *Edw.* 3d. That which you speak of the *House of Commons*, is but part of the *House of Commons*, they never did, nor had any power, to make a *Law* but by *King*, *Lords*, and *Commons*; and therefore your *Plea* is naught, and all the *Court* here is of the same opinion; if they were not, they would say so: there- fore

fore what you have said is over-ruled by the Court. Have you any thing else to offer ?

Mr. Harrison. *Notwithstanding the Judgment of so many Learned ones, that the Kings of England are no ways accountable to the Parliament. The Lords, and Commons, in the beginning of this War having declared the King's beginning War upon them; the God of Gods——*

Court. Do you render your self so desperate, that you care not what Language you let fall ? It must not be suffered.

Mr. Harrison. *I would not willingly speak to offend any man : but I know God is no Respector of Persons. His setting up his Standard against the People ——*

Court. Truly, Mr. Harrison, this must not be suffered : this doth not at all belong to you.

Mr. Harrison. *Under Favour, this doth belong to me. I would have abhorred to have brought him to Account : had not the blood of English-men, that had been shed ——*

Council. Me thinks he should be sent to Bedlam, till he comes to the Gallows, to render an Account of this. This must not be suffered. It is in a manner a new Impeachment of this King ; to justify their Treasons against His late Majesty.

Mr. Solicitour General. My Lords ; I pray, that the Jury may go together upon the Evidence.

Sir Edw. Turner. My Lords, This man hath the Plague all over him : it is Pity any should stand near him ; for he will infect them. Let us say to him, as they use to write over an House infected, *The Lord have Mercy upon him ;* and so let the Officer take him away.

Lord Chief Baron, Mr. Harrison. We are ready to hear you again,

again : but to hear such Stuff, it cannot be suffered. You have spoken that, which is as high a Degree of Blasphemy, next to that against God, as I have heard. You have made very ill use of these Favours, that have been allowed you to speak : your own Conscience cannot but tell you the Contradiction of your Actions against this, that you have heard as the Opinion of the Court. To extenuate your Crimes you may go on ; but you must not go as before.

Mr. Harrison. *I must not speak so, as to be pleasing to men: but, if I must not have liberty, as an English-man —*

Court. Pray, do not reflect thus. You have had liberty, and more, then any Prisoner in your Condition can expect : and I wish you had made a good use of it. Keep to the Business ; say what you will.

Mr. Harrison. My Lords; *thus. There was a Discourse by one of the Witnesses, that I was at the Committee ; preparing the Charge, and that I should say, Let us blacken Him. The thing is utterly untrue, I abhorred the doing of any thing touching the Blackning of the King. There was a little Discourse between the King, and myself. The King had told me, that He had heard, that I should come privately to the Isle of Wight, to offer some injury to Him. But I told Him I abhorred the thoughts of it. And whereas it is said that my Carriage was hard to Him, when I brought Him to London : it was not I, that brought Him to London : I was commanded, by the General, to fetch Him from Hurst-Castle. I do not remember any hard Carriage towards Him.*

Court. Mr. Harrison, You have said, That you deny that of Blackning ; which the Witness hath sworn : and somewhat else touching the King, in His Way to London ; that the Witness hath sworn to also. The Jury must consider of it, both of their Oaths, and your Contradictions. If you have nothing more to say, which tends to your Justification, We must direct the Jury. The end of your Speech is nothing, but to infect the People.

Mr.



Mr. Harrison. *You are uncharitable in that.*

Justice Foster. *My Lords, This ought not to come from the Bar to the Bench ; if you sally out thus about your Conscience. If your Conscience should be a darkened Conscience ; that must not be the Rule of other mens Actions. What you speak of that Nature is nothing to the Business. If you have any thing to say, by way of Excuse for your self for matter of Fact, you may speak : but, if you will go on as before, it must not be suffered.*

Mr. Harrison. *The things, that have been done, have been done upon the Stage, in the sight of the Sun——*

Court. All this is a Continuance of the Justification, and Confession of the Fact. We need no other Evidence.

Council. He hath confessed his Fact, my Lords. The matter it self is Treason upon Treason : Therefore we pray Direction to the Jury.

Lord Chief Baron. Mr. Harrison, I must give Direction to the Jury : if you will not go further touching the Fact.

Mr. Harrison. *My Lords, I say, what I did was by the Supreme Authority. I have said it before, and appeal to your own Consciences ; that this Court cannot call me to question.*

Lord Chief Baron. Mr. Harrison, you have appealed to our Consciences. We shall do that, which, by the Blessing of God, shall be just ; for which we shall answer before the Tribunal of God. Pray, take heed of an Obdurate, Hard Heart, and a Seared Conscience.

Mr. Harrison. *My Lords, I have been kept six Months a Close Prisoner, and could not prepare my self for this Trial by Council. I have got here some Acts of Parliament of that House of Commons, which your Lordships will not own ; and the Proceedings*  
of



*of that House, whose Authority I did own.*

Lord Chief Baron. This you have said already. If you shew never so many of that Nature, they will not help you: you have heard the Opinion of the Court, touching that Authority. They all unanimously concur in it.

Gentlemen of the Jury, You see, that this Prisoner at the Bar is Indicted for *Compassing, Imagining, and Contriving* the Death of our late Sovereign Lord, King Charles the First, of Blessed Memory. In this *Indictment* there are several things given, but as Evidences of it: they are but the *Overt-Acts* of it. The one is, first, that they did meet, and consult together about the putting the King to Death: and that alone, if nothing else had been proved in the *Case*, was enough for you to find the *Indictment*. For the *Imagination* alone is Treason by the Law. But beause the *Compassing* and *Imagining* the Death of the King is secret in the Heart, and no man knowes it but God Almighty: I say, That the *Imagination* is Treason: yet it is not such, as the Law can lay hold of; unless it appear by some *Overt-Act*. Then the first *Overt-Act* is their *Meeting, Consulting, and Proposing* to put the King to Death. The second is more open; namely, their *Sitting* together, and *Assuming an Authority* to put the King to Death. The third is *Sentencing the King*. And I must tell you, that any one of these Acts prove the *Indictment*. If you find him guilty but of any one of them; either *Consulting, Proposing, Sitting, or Sentencing* (though there is full Proof for all) yet notwithstanding you ought to find the *Indictment*. You have heard what the *Witnesses* have said, and the *Prisoner's* own Confession. Witnesses have sworn their sitting together; and that he was one: One swears he sat *four* times; another *twice*; some *several times*. There are several Witnesses for this: as Mr. Masterfon, Mr. Clark, Mr. Kirk, and Mr. Nutley. And then you have another thing too, which truly the *Prisoner* did not speak of. Witness was given against him, That he was the Person that Conducted the King: this was before that, which he would have to be done by a *Legislative Power*: and that is another *Overt-Act*.

*Act.* If a man will go about to *Imprison* the King; the *Law* knows what is the sad Effect of such Imprisonment. That hath often been adjudged to be an Evidence of *Imagining*, and *Compassing* the Death of the King. That man, the *Prisoner* at the *Bar*, it hath been proved to you, did *Imprison* the King; and it appears by his own Hand to the *Warrant* for summoning of that Traiterous Assembly, *The High Court of Justice*, as they called it. And also it appears by his Hand to the *Warrant* for Execution; that *Bloody Warrant*. He hath been so far from denying, that he hath Justified these Actions. The Evidence is so clear, and pregnant, as nothing more. I think you need not go out.

*The Jury went together at the Bar, and presently unanimously agreed on their Verdict: whereupon they were demanded by the Clerk.*

*Clerk.* Are you agreed upon your Verdict?

*Jury.* Yes.

*Clerk.* Who shall say for you?

*Jury.* Our Fore-man. (Which was Sir Thomas Allen.)

*Clerk.* *Thomas Harrison.* Hold up thy Hand. Gentlemen of the *Jury*, Look upon the *Prisoner*. How say ye? Is he guilty of the Treason, whereof he stands Indicted, and hath been Arraigned? or Not guilty?

*Fore-man.* Guilty.

*Then the Keeper was charged to look to the Prisoner.*

*Clerk.* What Goods, and Chattels, had he at the time of committing this Treason, or at any time since?

*Fore-man.* None to our Knowledge.

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*Which*

*Which Verdict being repeated to the Jury by Mr. Clerk of the Crown, the Jury owned it unanimously.*

*Mr. Solicitor Gen. My Lords, upon this Verdict, that hath been given against the Prisoner at the Bar, I humbly move, that we may have Judgment given.*

*Your Sessions will be long, and your work will be great; his Demeanour hath been such, that he doth not deserve a Reprieve for so many Days, that you are like to spend in this Session.*

*Court. Mr. Harrison, they desire Judgment upon the Verdict. What do you say for your self, why Judgment should not pass against you?*

*Clerk. Thomas Harrison, hold up thy Hand. What hast thou to say for thy self, why Judgment should not pass against thee, to dy according to Law?*

*Mr. Harrison. I have nothing further to say; because the Court have not seen meet to hear what was in my Heart to speak, I submit to it.*

*The Cryer made Proclamation for Silence whilest Judgment was in giving.*

*Lord Chief Baron. You, that are the Prisoner at the Bar, you are to pass the Sentence of Death; which Sentence is this. The Judgment of this Court is, and the Court doth award; that You be led back to the place, from whence you came, and from thence to be drawn upon an Hurdle to the place of Execution, and there you shall be hanged by the Neck, and being alive shall be cut down, and your Privy-Members to be cut off, your Entrails to be taken out of your Body, and (you living) the same to be burnt before your Eyes, and your Head to be cut off, your Body to be divided into four Quarters, and your Head, and Quarters, to be disposed*

*posed of at the pleasure of the Kings Majesty: and the Lord have Mercy upon your Soul.*

And then *Proclamation* was made for *Adjournment* of the *Court* to this place till seven of the Clock to morrow morning. And all *Jury-men*, and *Witnesses*, were commanded to be at the said *Place*, and *Time*, upon Forfeiture of an hundred Pounds apiece.

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*October*

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Octob. 12. 1660.

The Proclamation for Silence.

The Jury called.

Prisoners brought to the Bar, viz.

*John Jones, Adrian Scroop, Thomas Scot, Gregory Clement,  
John Carew.*

Cryer. Sir Thomas Allen.

Clerk. Sir Tho. Aleyn, lay your hand on the Book, look upon  
the Prisoner at the Bar.

Scroop: I challenge him my Lord.

L.C. Bar. That you may not mistake, if you challenge in  
this manner, and do not joyn in your challenges, we must  
try you severally one after another; I must tell you the course  
of the Law, If one challenge one, and another challenge ano-  
ther, we must sever, and go to Tryal one by one. Call the  
next.

Cl. Sir Henry Wroth.

Scroop. I challenge him.

L.C. Bar. Then we must go on severally, set all aside but  
Mr. Scroope; Mr. Scroop, you may challenge particularly whom  
you will, till you come to 35. if you go beyond that number,  
you will lose the benefit of the Law.

Scr. I desire my Lord, that whosoever was challenged yesterday,  
may not be called again.

Court. No, that cannot be, that is nothing to you. The  
Court

Court thereupon proceeded, and called —

Challenged, *John Lisle, Nic. Raynton, Thomas Wynter, Thomas Frankelyn, Randal Nichol, Jo. Kirke, Ambrose Scudamore, George Tirrey*, who were all challenged.

Jury *Thomas Willet, Hen. Marsh, Charles Pittsied, Chr. Abdy, Rich. Cheney, Tho Bid. Jo. Smith, Richard Abel, Ralph Hallal, Jo. Gallyard, Tho. Swallow, Sam. Starnel*, were admitted and sworn on the Jury.

*Cl. Cryer*, make Proclamation. If any man can inform my Lords the King's Justices, the King's Serjeant, or the King's Attorney, before this Inquest be taken between our Sovereign Lord the King, and the Prisoner at the Bar, let them come forth and they shall be heard, for now the Prisoner stands at the Bar upon his delivery, and all others bound by recognizance to give evidence against the Prisoner at the Bar, let them come forth and give their evidence, or else they shall forfeit their recognizance.

*Cl. Adrian Scroop* hold up thy hand ; you Gentlemen that are sworn, look upon the Prisoner, and hearken to his charge ; you shall understand, &c. upon this Indictment he hath pleaded not guilty.

*M. Sol.* May it please your Lordships and you Gentlemen of the Jury ; this Prisoner at the Bar stands indicted for compassing and imagining the death of the late King of blessed memory. The Indictment sets out, that to that end and purpose the Prisoner at the Bar did with others, assemble and sit together at *Westminster Hall* consulting upon him, and usurped an authority to proceed against the life of our said late Sovereign, and in pursuance of that, our late Sovereign was brought to his death. These things are alledged in the Indictment as several *over Acts* to shew the treason of his heart, which was the compassing and imagining the death of the King ; Compassing and Imagining are the words of the

the Statute, the rest of the Indictment is but as so many overt-acts, evidences and manifestations of that corrupt and wicked heart of his, by which he first thought such a thought against his Sovereign. The manner of our evidence shall be this: Before they could come to accomplish this damnable design, it was necessary to meet in a trayterous assembly, which they called the *High-Court of Justice*, that under the pageantry and mockery of that, they might pretend to murder him by a Sentence; and before that assembly could come to sit, there was a Precept set forth very formally to summon them to sit. This Prisoner at the Bar is one of those persons, who under his hand and seal did summon that Court to sit upon the life, of our late Sovereign. When the Court in obedience to that summons (as they called it) did meet, they sate several times, and he among them; they did proceed with a wonderful impudence (as they had begun) to pronounce sentence of death upon our late Sovereign; My Lords, this Prisoner at the Bar was amongst them, and was at that Court, and gave the sentence. When they had done, that they might compleat their villany, they made a bloody Warrant for severing the head of his late Majesty from his body, and the hand of the Prisoner is to that Warrant also; and this is the scope of our Indictment.

*Sero.* My Lords, may I have liberty to speak?

*Court.* If you do confess that which is opened in evidence against you, we shall not need to examine any Witnesses.

*Ser.* Examine what you think fit, if I understand that worthy Gentleman that spake last, he said that my hand was to the Warrant for Execution; My Lord, if I can see my hand I can tell, and I will not deny my hand.

*Court.* Shew it him, which was done accordingly.

*Ser.* My Lords, I will not deny but that it is my hand, but it is not my seal.

*Council.* Cryer, call Mr. Masterfon, Mr. Kirke, Mr. Clark, Mr. Carr, who were all sworn.

Mr. Masterfon, pray tell my Lords and the Jury, whether you did see the Prisoner at the Bar in that which they called the *High-Court of Justice*, sitting as a Judge upon the late King.

Mr.

*Mr. Maſt.* My Lords and Gentlemen of the Jury, I ſaw upon the 22. or 23. of *Jan.* in the year 1648. the Priſoner at the Bar ſitting upon the Bench as one of the Judges in that which they called the *High-Court of Juſtice*; the King ſtanding a Priſoner at the Bar; I ſay either 22. or 23. But I ſay particularly upon the 27th. of *Jan.* 1648. in which the ſentence was paſſed upon the late King, I ſaw the Priſoner at the Bar ſitting upon the Bench, in that which they called the *High-Court of Juſtice*.

*Coun.* How did he demean himſelf when the ſentence was read?

*Mr. Ma.* When the ſentence was read, it was by the Preſident (as he was called) of that Court, ſaid to be the Sentence and Judgment of the whole Court, upon which the Priſoner at the Bar roſe up, as to my apprehenſion, teſtifying his Aſſent. All their Aſſents were taken ſo, and no otherwiſe to us that were as ſpectators.

*Scr.* I beſeech your Lordſhips that I may ſpeak without offence, and answer to this.

*Court.* *Mr. Scroop,* you may pleaſe to have Paper, and Pens, and Ink, to take Notes, or to ask any queſtions.

*Scr.* My Lords, give me leave to ask him this queſtion, whereabouts did he ſee me ſit in the Court.

*Court.* *Mr. Ma.* you hear the queſtion, pray answer to it.

*Ma.* My Lords, I cannot particularly ſay where he ſat, but I ſaw him in the Court, and to the beſt of my remembrance it was on the ſecond ſeat on the left hand of *Bradſhaw*.

*Scr.* I would not give offence to the Court in any kind, I am now pleading for my life, I deſire to take a little liberty to ask this Gentleman, if ever He and I were in company together, that he knows me ſo well.

*M.* For my part I do not remember I ſaw his face before the ſitting of that Court: If this Gentleman ask me if I were ever in his company, I know not how I may conſtrue the word Company: but I am ſure I never eat nor drank with him, I have ſeen him very many times at Committees, more



then twenty times, since that business.

*Mr. Clark* called.

*Coun. Mr. Clark* you have heard the question, did you ever see the Prisoner at the Bar in that which they called the High-Court of Justice?

*Mr. Clark*, I do remember in the year 1648. I saw the Prisoner sitting in that which they call the High-Court of Justice upon the Tryal of the King.

*Scr. My Lords*, you may desist in examining witnesses touching my sitting.

*Court.* Do you acknowledge you did sit in that which they called the High-Court of Justice.

*S.r. Yer*, I see it proved, and I see a Gentleman here in my eyes that I know very well, I will not deny it.

*Court.* Did you sit upon the sentence day, that is the Evidence, which was the 27th. of January: You are not bound to answer me; But if you will not, we must prove it. Do you confess that?

*Scr.* I do not confess that I stood up assenting to the Sentence. *Mr. Clark* called.

*Coun. Mr. Clark* what say you to that?

*Clark.* I did not take particular notice of him that day, that he stood up; but the whole Court stood up to my apprehension, but I took notice that he was there then present.

*Coun. Mr. Clark* do you remember that you saw any of them sit?

*Cl.* I did not take notice of any that sat then, but all stood up to my thoughts. *Mr. Carr* called.

*Coun. Mr. Carr*, tell my Lords and the Jury whether you did see the Prisoner at the Bar sitting in that which they called the High-Court of Justice.

*Carr.* My Lords and Gentlemen of the Jury, the 22. 23. and 27th. of Jan. 1648. I was present when the names of that they called the High-Court of Justice were called, and amongst others that were Judges of that

Court as was printed in a Paper which I then had in my hand, I found the name of *Mr. As Scroop*, who I saw did there

sit and appear.

*Scroop*

*Scroop.* I hope you will not take any Evidence from a Printed List.

*Council.* The manner of his Evidence is, he saith this; That he had this Printed Paper in his hand, when the names of that Court were called; and marking the persons in that Paper who were present, and that you were one of them who did appear.

*Scr.* My Lord, I shall not dispute in regard of my want of skill in the Law, the Lawfulness of bringing in any Paper in Evidence into the Court, I shall not dispute against your Lordships: But by your favour, I do suppose there is no witness ought to use any Paper, or look upon any Paper when he gives Evidence; but I shall submit it to your Lordships.

*Mr. Solicit.* Ask him the question without his Paper; but yet nothing is more usual than for a Witness to make use of a Paper to help his memory.

*Scroop.* The Gentleman that spake last, I cannot hear him.

*Mr. Sol.* We do not need his Paper in this Case, he will tell it without a paper. *Mr Carr*, speak without a paper.

*Carr.* My Lords, upon the calling of those that were Judges in that Court which they called the *High Court of Justice* then sitting, this Gentleman the Prisoner at the Bar did answer to his name then called.

*Scr.* Did you see me?

*Carr.* I heard you answer, and saw you.

*Scroop.* I pray he may be asked where about I sat in that Court.

*Council.* *Mr. Carr* you hear the Question, answer to it.

*Carr.* I am not able particularly to tell now, it being many years since.

*Scroop.* My Lord, observe of what value this Evidence is, I am sure I never was in his company, I do not know that ever he saw me in his life : I beseech you give me leave to plead for my self in all humbleness and modesty, my Lord,

*L. C. Bar.* Notice is taken of it *Mr. Scroop*, God forbid you should be debarred of it.

*Ser.* I say he comes in with Evidence of a Paper he heard my name called, and marked it : It is strange that a Gentleman whom I never saw, I know not his name, nor I do not think he knew my name, if he had met me.

*L. C. Bar.* I told you that was laid aside, and you heard him speak *Viva voce* without a Paper.

*Coun.* *Mr. Kirk*, did you see the Prisoner at the Bar in that Court which they called the High Court of Justice for Tryal of the late King.

*Kirk.* My Lords and Gentlemen of the Jury, I did see the Prisoner there, and I did wonder to see him there, which was the reason I took the more special notice of his being there.

*Ser.* Pray, my Lord, let me intreat one thing before he speaks, That your Lordships will be pleased to speak to him to give in his Evidence without any speech.

*Coun.* How can that be ? Can he give Evidence without speaking ?

*Ser.* I beseech you, my Lords, give me leave to say this, Let him give in his Evidence in plain words without any speech.

*L. C. Bar.* *Mr. Scroop*, he must be excused, there are Circumstances inducing which are as much as the Principal ; this that he hath said is very material : saith he, *I did see the Prisoner at the Bar there, I did not expect it, and wondered at it, and therefore took the more notice*—— Let him go on, ask him what question you will.

*Scroop.*

*Scroop.* My Lord, I submit.

*L. C. Bar.* Mr. Kirk, you must speak the truth, and the whole truth; go on.

*Kirk.* I say, as I said before, I saw this Gentleman sitting in that which they called the *High Court of Justice*, and I did therefore wonder at it, because I did not expect him there: I came to know him formerly as he was called Captain *Scroop*.

*Coun.* Go on.

*K.* And as I said before, I saw this person, this Prisoner at the Bar, sit amongst the rest of those persons, Judges as they called themselves of the *High Court of Justice for the Tryal of the King*, I did more particularly take notice of this person, because I did not expect him there: I knew him formerly upon this report, being an Eminent Man, by the name of Captain *Scroop*, and at that time was an Associate of one Captain *Vivers*, and Captain *Wingham*; I had not seen him some years before this business, and seeing of him there, I did the more particularly take notice of him.

*Ser.* Have you done, Sir? I beseech your Lordship ask him what imployment he had there himself when he saw me there.

*K.* My Lord, I was there to hear the Tryal.

*Lord Chief Baron.* Mr. *Scroop*, I am not willing you should have any thing of interruption, unless you reflect upon any person, that concerns not you Mr. *Scroop*, do not think it will be for your advantage, nor is it proper for you to ask.

*Scroop.* In all humbleness I do speak it to your Lordships, that your Lordship will please to consider, that if he had any imployment in that business himself, how unfit a Witness he is against me.

*Court.* Much fitter.

*Ser.* If it be so, I have dep.

*Kirk.* My Lord, I was there only as a Spectator, I went only there to see and hear, what was there to be seen and heard; I stood there and took Notes in Characters of the Proceedings, and several others with my self did the like, and we compared them together, that was all my business at that time, and I saw him sit there the 27. day of Jan 1648. which was the day of the Sentence against the King.

*Scroope.* Whereabouts did you see me sit there?

*Kirk.* It is not, I think, imaginable that any person should be able after so many years, possibly to say where any person sat; but to the best of my remembrance you sat upon the second Bench next the President: But I dare not be positive in that, I dare not justify it upon my Oath, it is but my remembrance.

Here Mr. *Scroope* talk't to one that stood near him.

*L. Chief Baron.* We must desire that of you Mr. *Scroope* that you will not speak to any here but what the Court may hear.

*Scr.* I shall observe your Commands.

*Mr. Coitmore* sworn.

*Council.* Did you see the Prisoner at the Bar sitting in that which they called the High Court of Justice, as a Judge upon the King?

*Coit.* I did see him.

*Council.* When, what day?

*Coit.* I cannot name the day, I was there three dayes of their sitting, there I saw him once or twice; once I am sure.

*Scr.* What day?

*Coit.* I cannot remember.

*Council.* Did he sit there as a Judge upon the King.

*Coit.* He sat amongst the rest as a Judge.

*Scr.*

*Scr.* Give me leave to ask him whereabouts he saw me sit?

*Council.* Where did you see him sit?

*Coit.* I cannot remember the place, he was among them, I saw him either one or two dayes, there was a great company of them together.

*Council.* Mr. *Nutley*, Did you see the Prisoner at the Bar sitting in that which, they called the High Court of Justice?

*Nut.* If it please your Lordships, I was there in the Court those four several dayes that they sate in Judgment, I heard the Prisoner at the Bar called by his name, I did take notice he was there, truly I think he was there twice or thrice to my remembrance.

*Council.* Can you tell what day, whether the 27th of Jan. 1648.

*Nut.* I cannot say positively, but to the best of my remembrance he was there, that was the last day when Judgment was given.

Mr. *Baker* sworn.

*Council.* Mr. *Baker* what say? you did you see the Prisoner at the Bar, sitting in that which they called the High Court of Justice?

*Baker.* Yes, I did see Col. *Scroop* on Tuesday the 23. of Jan. 1648. very particularly stand up and answer to his name.

*Council.* Mr. *Coitmore*, are you acquainted with Col. *Scroop's* hand?

*Coit.* I have had several Letters from him.

*Council.* Mr. *Scroop*, have you a mind to see the Warrant for summoning the Court?

*Scr.* I desire to see it; I do not remember I set my hand to it.

*Court.* Shew it him. It being shewed him,

*Scr.* I cannot say it is my hand.

*Council.* It is too true, we shall prove it to you.

*Court.* Shew it to Mr. Coitmore.

*Scr.* Be pleased to let me see it once more; *which was again shewed him*: Truly, my Lord, I will save him the labour.

*Council.* You do acknowledge it was your hand?

*Scr.* I'll save him the labour; for I confess I do not love Men should be put to their Oaths more than needs.

*Here likewise the Warrant for Execution was read.*

*Coun.* My Lords, we shall conclude our evidence with Major General Brown, the Lord Mayor Elect.

*The Lord Elect sworn.*

*Coun.* My Lord, be pleased to tell my Lords what discourse hath lately passed between the Prisoner at the Bar and you, concerning the death of the King.

*Lord Elect.* My Lords, upon some occasion I was accidentally at the Chamber of the Speaker, there I met this Gentleman whom indeed I knew not; he told me who he was; and when I understood who he was, I said to him (or words to this purpose, I cannot tell the words) because I would not distaste him, and say you have done this. therefore I put it thus, *We have done this, What a sad case have we said I, brought this Kingdom unto? Why, saith he? you see, said I, how it is ruined, now the King is murdered, &c. Saith he, some are of one opinion, and some of another. Sir, said I, do you think it was well done to murder the King;*

King? faith he, *I will not make you my Confessor, Sir, it was much to this purpose.*

*Coun.* When was this spoken?

*Lord Elect.* Truly I do not know the day, but it was that day that Sir *H. M.* rendered himself to the Speaker, it was since the coming in of the King.

*M. Sol.* Neither time nor the hand of God appearing in this business, nor the condition he was in, was ever able to bring this Gentleman to be sorry for his offence; but we do not give it as any evidence of his crimes: You have heard the Prisoner confess the two Warrants; You have heard by several witnesses produced, that he did sit in that which they called the High-Court of Justice, by three, that he sat particularly on that day they called the day of their Judgment; you have heard how little penitence he hath had, by his Declaration to the Lord Mayor Elect.

*Scr.* *I hope now that you have heard the Evidence against me, that you will give me leave to make some defence for myself.*

*L. C. Bar.* God forbid otherwise, but that you should have free liberty.

*Scr.* Truly my Lords, though my breeding hath not been in the way of the Laws, and therefore I have a great disadvantage, when there be such learned Gentlemen as these are to plead against me. I must confess to you, I have something for matter of Law to plead for the justification of the fact, though I would not undertake to justify the person, this I humbly entreat, if it may be granted, that I may have some time given me and some Council, that I may answer matter of Law,

*L. C. Bar. M. Scroop,* if you have any thing of matter of Law, for which you would have Council, you must alledge that matter first; the use of Council is only to put in certainty, what you have of matter of Law, and then the Court and Judges must judge of it. If you have  
matter



matter of Law, you must tell what it is; if it be matter that there is cause to over-rule it, there is no cause of making further use of Council. If one be Indicted for murder, when he comes to Tryal, he will say, I have matter of Law to plead; What is that? That Murther is no felony: Do you think Council will be admitted in this? If you do alledge what this matter is wherein you desire Council, you shall have your answer.

*Ser.* My Lords, as well as I am able to do it I shall do it; my Lord, I was not of the Parliament; take notice of that, and that which was done in the High Court of Justice, it was done by a Commission from the Parliament. My Lord, it was that Authority which was then, I will not say it was so, because I would not give offence; it was that Authority then which was accounted the supreme Authority of the Nation; and that Authority, My Lord, that a great many of the generality of the Nation submitted to. My Lord, I having received a command from that Authority, what I did was in obedience to that Authority: My Lord, I have not had time to consider of these things, because I have been for these six weeks time shut up a close Prisoner, and that I could neither come at Council nor any thing else, nor to get any thing to prepare for it; therefore I desire your Lordships to do me the favour, if you see any weight in it, to let me have time and Council assigned me.

*L. C. Bar.* Have you done Sir.

*Ser. Yes.*

*L. C. Bar.* Then I take it, this is the effect of what you have said, if I have not taken it aright tell me so; You say you justify the fact though not your Person; That you were not of the Parliament; That what was done was by Commission from the Parliament: Be pleased not to mistake me; for I say you said this: That that which I have to plead in justification of it, I do not say that I justify my self, but that which I have to say is for justification of the Fact: I was first no contriver of the business;

And

And then secondly, I did it by virtue of the Command, and in obedience to the Authority of the Parliament: That that Authority was then accounted the Supreme Authority of the Nations, and that the Generality of the Nations did submit to their Authority; I think I have repeated all you have said. Then Mr. *Scroop* you must know this, That there is no cause at all why Council should be given for what you speak; I profess it rather tends to the aggravation than extenuation of what you did. First, you say you did it by Authority of Parliament, I am afraid you have been mistaken as well as others, by the word Parliament, what doth that mean? I am sure you and every one knows that there was not one Precedent ever heard of, till this, That the House of Commons should take upon them the Legislative Power, and make such an Act as this was, there was no colour for it. Then for men upon their own heads never heard of before, and against the Liberty and Freedom of the People, that they should call it the Parliament when there was but 45 sate, whereas there was above 240 excluded; and how you can call this a House of Commons is a great wonder to me; but I tell you this take it for granted, that if they were the most perfect House of Commons that could be: Did ever the House of Commons before this single Act, take upon them the Legislative Powers without the Lords? The Acts are begun in the Commons House; when you have done, if the Lords not pass it, it is a bortive; if it be done by both Houses, there ought to be a Royal assent: But the Lords had rejected this Act; then they must take upon them, these 46 men, whereof I do believe there was not above 25 or 26 men that did vote this, and this must be called the Parliament, the Commons of *England*. I would fain know whether any man hath heard, that the House of Commons took upon them the Legislative power before this Act? but this hath been over-ruled in the like Case, and I shall say no more to it. What is the Oath of Allegiance? is it not that you would defend the King, his Crown, Rights and Liberties, against all persons whatsoever? It was not  
only

only against the Pope, (as some would have it) but the word is, *or otherwise*: They broke the oath of Supremacy: which was, *That the King was the Supreme Governour of these Nations*: They swore that they would maintain and keep all Privileges, Immunities, Preheminencies, annexed to the Imperial Crown of this Realm; there is difference between some Crowns, and Imperial Crowns; An Imperial Crown, it was that which was not to be touched in the Person: We do not speak any thing of the absolute Power of the King; for you see he cannot Judge concerning the Death of his Father, but by *Laws*. When you swore this Allegiance, all those Members to break all this at once, This would be so far from having any colour of Authority, that he that justifies it, justifies it against the light of Conscience and Laws. You say you did it by Commandment from them; He that doth a Command by such an Authority, it is his guilt: Our *Law-Books* say, That if a Court at Common-Law exceed their Jurisdiction, in that Case, he that obeys that Command is punishable. In the Court of Common-Pleas, if there be an Appeal there for Murther, it is only proper to the Upper Bench; and therefore if the party be condemned, sentenced, and executed thereupon, the Executioner in that Case is guilty of Murther, for obeying that Authority which was indeed no Authority: And therefore whereas you would go about to justify the Fact, because you did it by Command of that Authority, that is an Aggravation, That when men shall assume an Authority which is a Devil at the noon-day, appearing without Vizors; I say, shall assume an Authority never heard of before, If men will countenance their Acts by obeying of them, it is an Aggravation: We have already Declared this in the Case of the Prisoner yesterday; We are all satisfied in the *Law* in that Case: It is so clear a Point in *Law*, that my Brethren here and we did over-rule it yesterday in the like Case, and so We must now; and I hope that all do concur in this Opinion, that hath been delivered.

*Lord Finch.* I hope all do concur in this opinion delivered by

by my Lord Chief Baron : You shelter your self under a Command of the House of Commons ; But let me tell you and all the World, That if the House of Commons (let it have been never so compleat ) had given a Command, it had been a thing no ways justifiable ; the Justification is an Aggravation.

Scr. My Lord, I do see that every thing I speak, though it be for clearing of my self from your ill opinion, I see it is taken in an ill sence (I humbly beseech pardon for the Expression ) if I erre I will crave your Lordships pardon ; But my Lord, I say this, If I have been misled, I am not a single person that have been misled. My Lord, I could say, (but I think it doth not become me to say so) That I see a great many faces at this time that were misled as well as my self ; But that I will not insist upon : I say this, That I hope an Error in Judgement shall not be accounted Malice, or an Error of the Will : Truly (my Lord) I never went to the work with a malicious heart : I humbly desire your Lordships to take notice of it, That I never bore any malice at all against his late Majesty.

L. C. Bar. Mr. Scroop have you done ?

Scr. My Lord, I do beseech your Lordships to take notice, That an Error in Judgement is not an Error in the Will.

L. C. Bar. Mr. Scroop, I am very glad to hear you say so ; But let me tell you what the Law saith ; The Law in this Case treats the malice. If a man do an act of this nature, that may be some kind of excuse to God, but towards man you are to look to the Fact, the Law implies the malice. If there be any thing you will say in the Extenuation of your offence, we will be very glad to hear that may tend to your help.

Scr. My Lord, There is one Evidence comes in against me, that I must confess that I am very sorry to see ; and my Lord there was a saying, it is by my Lord Mayor Elect ; Truly he is a worthy,

thy Gentleman, but I desire the Lord may forgive that which he hath spoken: Truly my Lord, I did never intend any thing in this, neither can I directly remember that I spake those words directly, as my Lord Mayor Elect doth spake: I do believe my Lord Mayor cannot very well remember them himself; for he saith, So far as he can remember; I must confess that when I was there, and had appeared according to the Proclamation, that such discourse somewhat like it was raised, not of my procuring, I did not procure the Discourse; I never intended the Justification of the Fact; but it was my ill success that I should meet with that worthy Gentleman to have so much discourse with him.

L. C. Bar. Mr. Scroop, my Lord Mayor Elect saith no further then this, So far as he remembers, and the words that you should say, were these, That some are of one opinion, and some are of another.

Scr. Upon the death of the King (My Lord) I must confess to you, that somewhat I said to him, but I cannot own that I said those words. My Lords, He is a worthy person, I do not desire to spake any thing to degenerate in the least kind from him, it is but his yea and my no, there was no body there.

L. C. Bar. Have you any thing more to say for your self?

Scr. My Lord, if your Lordship do over-rule it so that I may not have Council, I have little more to say.

L. C. Bar. You have heard the sence of the Court in that particular, you cannot have Council allowed you as to the matter you have pleaded.

Scr. I have done but only this, My Lords, I know not whether it be seasonable to mention it, I came in upon the Proclamation; and My Lord, by means of these unhappy words that have been reported of me in the House of Commons, whereas before I was no excepted person, I came to

be excepted, and upon the very last day of passing that Act, never was excepted before the very last day: I beseech you take notice of this.

*L. C. Bar. Mr. Scroop*, That is a thing that is not before us, but there will be a proper time to consider of it in another place, that is nothing to the Tryal; have you any more to say, Sir?

*Scr.* No, My Lord; Will your Lordship please to let me speak a word to the Jury.

*L. Ch. Baron.* If you speak to the Court, the Jury will hear it.

*Scr.* Truly my Lord, This I do perceive, that I am under a very great prejudice as to this fact. It hath been the case of many Gentlemen besides my self, I desire that these Gentlemen would take my case into consideration, as they would their own, and I desire that the Lord would give them direction that they may do that which is according to Justice and Mercy; that is all I have to say my Lords.

*L. C. Bar.* You Gentlemen that are sworn of this Jury, you see the Prisoner *Mr. Scroop*, hath been indicted for imagining and contriving the death of his late Majesty of blessed memory, King *Charles* the first. You see there are several things in this Indictment; the charge is the Imagining and compassing the death of the King. In the Indictment there are several matters of fact to prove this Imagination. The Imagination is the Treason, the matters of fact to prove it are but the evidences of that imagination; if any one of them be proved to you it is sufficient, the one is consulting and meeting together how to put him to death, the other Sitting and Assuming Authority to bring him to Tryal. Then you have a Sentence by the Court to put the King to Death thereupon. Afterwards he was put to Death. Any one of these matters are Evidence enough for you to prove the

the *Indictment*; for though the *Indictment* concludes that so they did *Imagine* and *Compass* the Death of the King, and that the King was put to Death in manner and form as aforesaid; the manner and form aforesaid goes to this, To the imagination of the Heart; for the *Law* did not think any one would put the King to death, they thought it so a Crime, they thought it not convenient to bring it into the Statute. But the *Compassing* and *Imagining* the Death of the King, is made Treason: Then to apply it, this Fact, to the Gentlemen, it appears to you here by the proofs against him. Here is Mr. *Masterfon*; he swears he saw him sit in that pretended Court, there was your Evidence of the first, the first was their *Meeting together*; and of the second too, They did *Assume Authority* upon them; and he swears further to the *Sentencing*, That the Prisoner was there. Here were the Three *Overt-Acts* all proved. He confesses he did sign the *Warrant* for putting the King to Death: This without any Witness at all; was a sufficient proof, a Proof of proofs. The other Witnesses you hear what they say, you hear Mr. *Kirk*, M. *Clark*, M. *Nutley*, swear all to his Sitting there. It is true, when this comes to the particulars where he sat, you must remember it was Twelve Years ago; when a man sees a mixt number of about Eighty Persons, it is impossible a man should be able to answer this particular after Twelve years, where such a one sat: but you may see by his *Sentencing* what he did. They all witness they saw him positively; and one tells you, *He wondered, he saw him there*: and indeed it might be a wonder; for Mr. *Scroop* ( to give him his right ) was not a Person as some of the rest; but he was unhappily engaged in that Bloody Business, I hope mistakenly; but when it comes to so high a Crime as this, men must not excuse themselves by ignorance, or misguided Conscience. As to God, for this *Horrid Murder of the King*, somewhat may be; but there is no Excuse or Extenuation before Man; there may be, I say, before the Lord. You see the Proof is full against this Gentleman, as full as may be, Witnesses saw him Sit, and he himself confessed he signed the *Warrants*. I

have



have no more to say to you; but *Gentlemen*, you see what it is, I think, for matter of *Fact*, you need not go from the *Bar*; but I leave it to you.

*Scroop*. My Lord——

*Lord Chief Baron*. Mr. *Scroop*, If you have any thing to say, when the *Jury* have brought in their Verdict, if you will say any thing for matter of *Mercy*, the Court will hear you.

*Scroop*. I thank your Lordship.

*The Jury went together, and presently settled themselves in their places.*

*Clerk*. *A. Scr.* Hold up thy hand. Look upon the Prisoner; How say you, Is he guilty of the Treason whereof he stands Indicted, and hath been Arraigned, or not guilty?

*Jury*. Guilty.

*Clerk*. What Goods and Chattels, &c.

*Jury*. None that we know.

*L. Chief Bar.* If you will say any thing, the Court will hear you.

*Scroop*. I have no more, My Lord, but refer my self to this Honourable Court.

*Clerk*. Set *John Carew*, *Tho. Scot*, *John Jones*, and *Gregory Clement* to the *Bar*; who were set accordingly; And being Commanded, they severally held up their hands.

*Clerk*. These men that were last called, &c.

*Sir Tho. Allen*, Lay your hand on the Book: Look, &c.

*Carew*. I Challenge him.

G

L.C.



*L. C. Bar.* Are you all agreed as to your Challenges?

*Pris.* No, my Lord.

*L. C. Bar.* Then we must do as before, sever you, and go to Tryal severally: Take the Three away, and let Mr. *Carew* stand at the Bar.

Challenged, *Charles Pitfield,* *Wille. Will. Smith,*  
*Rich. Rider, Edward Rolph, James Shercroft, Tho. Uffman,*  
*Francis Beal, Will. Whitcombe, Samuel Harris, Jo. Nicol of*  
*Finchley, George Righth, Tho. Fruen, Ab. Newman, Tho. Blithe,*  
*Will. Vincent, James Hawley, Chr. Abdy, Tho. Bide, John*  
*Smith, Abr. Scudamore, Ralph Halsel, John Galliard.* In  
 all, 23.

Jury Sworn, *Robert Clarke, Thomas Grover, Rich. Whaley,*  
*Sam. Greenbil, Nicholas Raynton, Tho. Winter, Rich. Cheney,*  
*John Kerk, Rich. Abel, Thomas Morris, George Turrey, Thomas*  
*Swallow;* In all, 12.

If any man can inform my Lords the King's Justices, &c.

*Cler. John Carew,* hold up thy hand.

You that are sworn, look upon the prisoner: You shall understand, &c.

*Sir Edw. Turner.* May it please your Lordships, our  
 Hue and Cry still proceeds against the Murtherers of our  
 late Sovereign Lord King *Charles* the First of blessed me-  
 mory, and this Gentleman the prisoner at the Bar is ap-  
 prehended as one among others, for shedding that pretious  
 blood. Gentlemen of the Jury, he stands indicted before  
 you, For that he (I cannot express it better) not having  
 the fear of God before his eyes, but being seduced by the  
 instigation of the Devil, he did imagin and compass the  
 death

death of his said late Majesty. In prosecution of this, Gentlemen, there be several things that are mentioned in the Indictment, which are the open acts to discover to you these secret and private imaginations. He did meet and consult with divers persons touching the death of the King, that did usurp and take upon them to exercise a Power and Jurisdiction to try the King; and finally, most horribly put him to death. The Treason by the Statute of 25 *Edw. 3.* and which you are to enquire of, is, the imagination and compassing the death of the King, the rest of the Indictment are but particulars to prove, that he did so imagine and compass the death of the King. If we shall prove these or any of these facts, you have then sufficient to convict them. There was a thing they called a High Court of Justice, that was set up, wherein they did intend to try our late Sovereign Lord, and a precept made, and that under the hand and seal of the prisoner at the Bar, amongst others, for summoning and convening that bloody Court, where (among the rest of the Miscreants) the prisoner at the Bar did sit and had confidence, nay impudence, to pronounce Judgment against his Sovereign. In this he rested not, but he among them set his Hand and Seal to that bloody Roll or Warrant for putting him to death, which accordingly was done, and to these several open acts we shall call out Witnesses, and so proceed:

*M. Masterfon, M. Clark, and M. Kirk sworn.*

*Coun. M. Masterfon,* look upon the prisoner, did you see him sit, in that they called the High Court of Justice?

*Lord Chief Baron. Mr. Carew,* if you will have pen, ink, and paper, you may have it, pray call for it.

*Carew.* I have no need of it.

*Coun. Mr. Masterfon,* did you see, &c.

*Mr. My Lords, and Gentlemen of the Jury,* I was pre-

sent at that Assembly, which they called the High Court of Justice for Tryal of the King, upon the 22, 23, and 27th. days of *Jan.* 1648. and there I saw the King stand a Prisoner at the Bar. I saw this Gentleman the Prisoner at the Bar sit upon the Bench in that Court, as one of his Majesties Judges, particularly upon the 27th. day of *Jan.* which was the day of Sentence, I saw him sitting there.

*Coun.* Mr. *Clark*, You hear the Question; Do you remember that you saw the Prisoner at the Bar sitting in that which they called the High Court of Justice?

Mr. *Clark*, I remember I saw the Prisoner at the Bar sitting in that which they called the High Court of Justice, for the Trial of the late King, and particularly I took notice upon the 23. and 27th. of *Jan.* 1648. that he was present.

*Coun.* What was done upon that 27th. day?

Mr. *Clark*, The 27th. day the late King was sentenced to death.

*Jury.* What is your Name, Sir?

*Coun.* His Name is *William Clark*.

*Coun.* Mr. *Kirk*, What say you to the former Question touching the Prisoner, his being at that, which they called the High Court of Justice?

Mr. *Kirk*, My Lords and Gentlemen of the Jury, I was present at the Tryal of his late Majesty of blessed memory, I saw that Gentleman the Prisoner at the Bar several days there, particularly the day of the Sentence, which was the 27th. day of *Jan.* 1648. when the Sentence was passed, he rose up, assenting to it. Then the Warrant for summoning that pretended Court was shewed to Mr. *Kirk*.

*Coun.* Do you believe that Hand to be the Hand of Mr. *Jo. Carew*, Prisoner at the Bar?

*Kirk.* My Lords, I do believe it to be his Hand, I have seen his Hand to several Orders, and being very well acquainted with his Hand-writing, I believe it to be his Hand as much as any Man can possibly know another man's Hand. Then the Warrant for Execution of the King was likewise shewn him.

*Coun.* Is that the Hand also of the Prisoner at the Bar?

*Kirk.* It is the same Hand, my Lord.

*Court.* Was Mr. *Carew* a Member of the Long Parliament?

*K.* Yes, My Lord.

*Coun.* Had you occasion to be acquainted with his hand?

*K.* My Lord, I have seen him set his hand several times to Orders and other Papers.

*Mr. Farrington* sworn.

*Coun.* Do you know (the Warrants being shewn him) those hands to be the writing of the Prisoner at the Bar?

*Far.* My Lords, really I believe these are his hands.

*Court.* Are you acquainted with his hand?

*Far.* Yes, My Lord, and I do believe these to be his hand-writing, I did not see him write them, but so far as possibly a man can know another's writing, I do believe these to be his.

*Court.* If you will ask to see them, you may see them Mr. *Carew*.

*Ca.* Please you to go on.

*Here they were both read.*

*Conn.* May it please your Lordships, we shall not need to trouble the Jury any further, we have proved that the Prisoner did sign that Warrant for summoning that Court of Injustice; that he sat there and sentenced the King to death among other, and that he signed the Warrant for execution.

*L.Chief Baron, M. Carew,* you have heard the evidence, you may please to speak what you think fit for your self.

*Ca.* My Lords, the crimes that are here laid to my charge in this Indictment, are Treason and Murther.

*L.Chief. Baron.* I would not have you to be mis-informed, it is Treason onely, but it carries the other in with it, Murther.

*Ca.* Because you say it carries the other inclusively.

*L.Chief. Baron,* It doth, the charge is the compassing and imagining the death of the King, the other is but evidence.

*Ca.* Then the thing that I stand upon before the Lord, and before you all, I say before the Lord, before whom we must all stand, and give an account of this action, which is a very great and weighty one: And whereas it is charged there, for I shall not trouble you with many words as to the particulars, or as to the proofs; but I shall ingeniously acknowledg what the truth is, and how far I can believe it: and therefore I say as to the beginning of what was charg'd by the Council, and according to the course of the Indictment, that what was done in those things, that it was not having the fear of God before mine eyes, but being moved by the Devil, and that it was done with a Trayterous, Malicious, and Devillish heart, and all those things mentioned in the Indictment: As for that I can say in the presence of the Lord, who is the searcher of all hearts, that what I

did was in his fear; and I did it in obedience to his holy and righteous Laws.

*Here the people hum'd—*

*L. Chief Bar.* Go on, he stands for his Life, let him have liberty.

*Ca.* It is part of my charge not to have the fear of God, &c. I did such and such things. I hope I may have liberty.

*L. Chief Bar.* Go on, you shall not be interrupted.

*Ca.* I say that I did it in the fear of the Lord, and I will begin with that, and confess ingeniously the truth of it. When this came into question, there was an Ordinance brought in to try the King, where my name was not as one of the Judges. There was another afterwards, an Act which I shall mention upon what ground by and by, what that was, and that Act was brought in and committed, and names brought in, and my Name was not brought in, and so afterwards my name was put in, and seeing it, I did strike it out: After the Committee was up I told them, I did desire to be excused in such a business. I have told you how, wherein, and the ground that I did it, which I shall leave with the Lord, in whose hand, your and my breath, and all our breaths are; and therefore when it was so, I did because of the weight of it, as being a very great and special thing, and so I was very unwilling, because of there being enow, which I thought had more experience every way for so great a concernment, as that was, to be employed rather than I, yet being satisfied with that Authority that did it; This is to shew you how that I had the fear of the Lord, and did weigh the things: After that, when the Bill was brought into the house, my name was put in there with several others, so I came to be in; and what I did was upon these two Accounts: First in obedience (as I told you) to the Lord, which was the chief thing: And in obedience to that which was then the Supreme

preme Authority of this Nation ; and therefore I shall mention these grounds very briefly, because indeed the things that are controverted here at this time, they have been controverted in the Face of the whole world in several Nations ; and the Lord hath given an answer upon solemn Appeals, to these things ; I shall therefore mention them very briefly, because they have been so publique. The *Declarations* and *Remonstrances* that have passed between the King and Parliament concerning the beginning of the Wars —

*L. Chief Baron.* Mr. *Ca.* I would be very loth to interrupt you ; But I see what course is taken, and the peoples eyes are upon you : You seek delays, and against the course of Prisoners you say you will confess ; but you do confess the Fact after you have spent the time. And all the Witnesses are heard for this that you speak of now ; you go about to justify as in the fear of the Lord, or any thing of that nature, that we cannot allow of ; but we do allow you to speak and give the heads of what you will say as to the matter of Fact ; but to hear you make discourses and debates which are a justification of a horrid and notorious Treason, we cannot hear it ; we ought not to hear the maintaining of open Treason ; cannot hear you to speak that upon your opening, which is Treason : We are willing that you open the Heads what you have to say, we are upon our consciences, and to appear before God for what we do, and so are you too ; but remember the Devil sometimes appears in the habit of an Angel of light. If you will couch your matter in a few words, the Court affords you liberty, which is indeed beyond the strict Rules of Law.

*Ca.* You say you sit here by the Laws of the Land, and are sworn to maintain the Laws. We ought not that we should plead to this Indictment, for what we did, was by an Act of Parliament.

*Court.* Pray Sir this must not be let fall without reproof, or rather punishment.

*Ca.*

*Ca.* I believe there is no Precedent for it.

*Court.* Sir, We know the act of Parliament as well as you, and most of the standers by : You go upon a false ground, there was no such Act of the Supreme Authority as you pretend to; these are but Phantasms of your own brain, and must not be suffered; these things have been controverted and decided many a time again and again.

*Ca.* I desire to have time to speak how it was begun and carried on, or else how shall I be able to make my defence, or to tell you what are the Heads I will insist upon; I shall declare the grounds upon which the Parliament did proceed.

*L.Chief Baron.* Mr. Carew, If that be your ground, the Parliament did it, the House of Commons did it, I have something to offer (not to interrupt you) to the then Commons —

*Ca.* In my humble opinion for the maintaining of this, It was by Authority, the supreme Authority, by which it was done.

*L.Chief Baron.* Did you sign this Warrant for the summoning and warning of that Court? And did you sign the Warrant for executing the late King.

*Ca.* I desire I may go on with my defence.

*L.Chief Baron.* We would not have you be mistaken, You seem to confess the act, and now you justify it: you cannot speak any thing for your justification till you confess the fact.

*Ca.* I shall speak to that in its time.

*L.Chief Baron.* You must speak to that first that is matter of Fact; whereupon the Jury are to go.

*Ca.*



*Ca.* There is matter of Law.

*Court.* You must speak to matter of Fact first.

*Ca.* I say this is that I was about to say, That the Supreme Authority ———

*Court.* You must speak to the Fact first, Whether you did compass, &c. the Kings death or not ? that is the first ground, if you did not, there is an end of the business : It is proved against you that you did it ; if you come to justify it, it must be when you have first agreed the matter of Fact.

*Ca.* I desire I may have liberty to proceed, either for matter of Fact, or Law as I list.

*Court.* No, no, you must first speak to the Fact, you may be after heard. You know in all cases they must begin with the Fact, either denying or extenuating ; For matter of Law in this case must arise from the fact.

*Ca.* But I humbly conceive there is a matter of Law in this case, and it is matter of Law that is above the jurisdiction of this inferior Court.

*Mr. Sol. Finch,* I pray that he may be held to the issue, *Guilty or Not Guilty* : If he deny the Fact, let us rely upon our Evidence, and he upon his ; he cannot come to Law till he hath confessed the Fact. The question is, Whether you did or not ? there is the Fact ; if you have any thing to justify, that follows.

*Ca.* I was upon that, and going on to shew the reasons and grounds of it.

*Court.* First you must confess it, if you will shew the reasons why you did it.

*Ca.*

**Ca.** I told you there was some things I did.

**Coun.** What are those some ?

**Ca.** I do acknowledg that I was there at the Court.

**Coun.** Did you sign the Warrants for summoning that Court, and for Execution of the King ?

**Ca.** Yes, I did sign them both.

**Coun.** Then say what you will.

**L. Chief Baron.** Now go on.

**Ca.** In the Year, 1640. there was a Parliament called according to the Laws and constitutions of this Nation, and after that there was some difference between the King and the Parliament, the two Houses of Parliament, Lords and Commons, and thereupon the King did withdraw from the two Houses of Parliament, as appears by their own Declaration, The great Remonstrance, printed in 1642. and thereupon the Lords and Commons did declare —

**L. Chief Baron.** Mr. Carew, The Court are of opinion not to suffer you to go on in this : they say it tends not only to justifie your Act, but you cast in Bones here to make some difference. You talk of the Lords and Commons, you have nothing to do with that business : your authority that you pretend to, was an Act of Parliament (as they called themselves) and that, where there was but 46 Commons in the House, and but 26 Voted it.

**Ca.** I say, that the Lords and Commons by their Declaration —

**Mr. J. Foster.** Hold your hand a while, Sir, not so fast,  
you

you go to raise up those differences which I hope are asleep new Troubles, to revive those things, which by the grace of God are extinct, you are not to be suffered in this; it is not the singling out of a few persons that makes a Parliament. We see as before, so still it is your course to blow the Trumpet of Sedition. Did you ever hear, or can you produce instances of an Act of Parliament made by the House of Commons alone, though this was not the House of Commons, as you heard before?

*Ca.* Neither was there ever such a War, or such a precedent.

*Court.* Nor we hope never will be: Pray remember, you were returned to serve in the House; what was that Writ that summon'd your appearance? You had no manner of ground in the world to go that way that you did.

*Comm.* We pray that the Prisoner at the Bar give us patience a little to repeat that to him which your Lordships have been so often troubled with declaring; this is not the first or second time that in this publique Assembly it hath been said, That neither the Lords nor the Commons, jointly nor severally, have any power at all to proceed upon the Person of the King; That it is not in their power to condemn any man in *England*, without the good pleasure of the King, much less the King himself; and that this is the great Liberty of the people of *England* that it should be so; and it was the first breach and invasion of our Liberty that that first Parliament made, and which you justify in the name of the Lord. In this case to throw us upon Debates of the War, and to talk here of the causes and reasons of that quarrel which ended in such a Tragedie. For this person to come here with this confidence, and to justify it, but that he knows he cannot be in a worse condition, one would wonder it should fall from any man that hath any regard of himself; it is all one to them that perish, whether they fall by one sin or multitudes. He makes

makes no scruple to multiply Treasons ; I do beseech your Lordship he may not offer as he hath begun, but that the Jury may proceed.

*Court.* All the Court are of the same opinion, not to hear any thing like the former Discourses.

*Ca.* I desire I may be heard, I have not compassed the Death of the late King, contrived the death of the King ; what I did, I did by Authority.

*Court.* This is not to be heard : You have heard what hath bin said to you, There could be no such Authority, neither was nor could be ; but you would by a wyre-lace bring it in by this ; You have confessed the Fact, which must be left to the Jury.

*L. Ansley.* I think you were present in the House of Commons when that Vote passed for agreement with the King in the Treaty at the *Isle of Wight*. You know the King having condescended to most of the desires of his Parliament ; there was a debate in the House, and a conclusion that they were grounds for peace. You know the Lords and Commons did resolve to agree with their King ; when that was done, that would not satisfie you and other Members of the House ; Then you go and contrive new ways ; you contrive a new fashioned Parllament, the driving away many Members by power, which you could not do by the Law of the Land ; Nay, the Parliament had Declared against that which you pretend is by Authority, is no Authority, for a few of you set up an Arbitrary Parliament of a few of your selves ; when you had driven away the rest : This kind of Parliament gives you the Authority you pretend to : You were saying that the Parliament was called at first the Lords and Commons by the King, according to the ancient Constitutions of the Laws ; Did such a Parliament give you such Authority as you pretend

tend to, an Act of Parliament, as you call it, which was but an Order of some of the Commons, and but a few of them; you can have no manner of Justification, and therefore your Plea must be over-ruled as yesterday it was in the like Case. You are indicted upon a cleer Act of Parliament of 25. Edw. 3. and you defend your self upon pretence of an Act of Parliament which hath been over-ruled as no Act.

*Ca. I am a stranger to many of these things, which you have offered, and this is strange: You give evidence sitting as a Judge.*

*L. Ch. Bar.* You are mistaken, it is not Evidence; he shews you what Authority that was, an Authority of 26 Members: How is this Evidence? *Mr. Carew* if you have any thing more of Fact go on: If you have nothing but according to this kind of discourse, I am commanded to direct the Jury.

*Ca. I am very willing to leave it with the Lord, if you will stop me that I cannot open the true nature of those things, that did give me ground of satisfaction in my Conscience, that I did it from the Lord.*

*Mr. Sol.* I do pray for the honour of God and our King, That he may not be suffered to go on in this manner. You have been suffered to speak, you have said but little, only Sedition; You pretend a Conscience, and the fear of the Lord, when all the world knows you did it against the Law of the Lord, your own Conscience, the light of Nature, and the Laws of the Land, against the Oaths you have taken of Allegiance and Supremacy.

*Ca. Gentlemen of the Jury, I say I shall leave it with you: This Authority I speak of is right, which was the supreme Power, it is well known what they were:*

*Count:*

*Conn.* It is so indeed, many have known what they were.

*L. Ch. Bar.* Mr. *Carew*, You have been heard what, and beyond what was fit to say in your own defence; that which you have said, the heads of it, you see the whole Court hath over-ruled. To suffer you to expatiate against God and the King by Blasphemy, is not to be endured; it is suffering poison to go about to infect people, but they know now too well the old saying, *In Nomine Domini, In the Name of the Lord* all mischiefs have been done, that hath been an old Rule. I must now give directions to the Jury.

*L. Ch. Bar.* Gentlemen of the Jury——

*Ca.* I have desired to speak the words of truth and soberness, but have been hindered.

*L. Ch. Bar.* Gentlemen of the Jury, You see the Prisoner here at the Bar hath been Indicted of Treason, and this was for Compassing and Imagining the Death of our Sovereign Lord, K. *Charles* the First, of blessed Memory. The Indictment sets forth several *overt-Acts* to prove this Imagination, for otherwise it is secret in the heart; the Fact it self, the Treason it self, is the Imagination of the heart: The *overt-Acts* that are laid down in the Indictment to prove this, *That they did consult and meet together how to put the King to death, That they did sit upon him, And thirdly, That they did sentence him to death, and afterwards he died.* You heard what is proved against the Gentleman, the Prisoner at the Bar, by several Witnesses: His own Confession, That he signed the Warrant for Summoning and Convening that Court together, whereby the King was to be brought to his Tryal; and that he sat at his Sentence, and issued the Warrant for his Execution: You saw that this Gentleman did the Fact, did Compass and

and Imagine the King's Death. That which you are to try is this Issue, being Indicted for *High Treason*, and pleading *not Guilty*; whether this Gentleman that went so far, Sate upon him, Condemned him, Signed the Warrant for his Execution, did not *Compass* and *Imagin* the King's Death? I think you need not stir from the Bar where you are; but I leave that to you.

After a very small time of Consultation by the Jury amongst themselves at the Bar, they agreed in a Verdict. Silence was Commanded.

Clerk. *John Carew*, Hold up thy Hand: Gentlemen of the Jury look upon the Prisoner. How say you? Is he Guilty of the horrid Treason whereof he stands Indicted, or not Guilty?

Foreman. Guilty.

Cl. What Goods and Chattels, &c.

Jury. None that we know of.

Mr.

**Mr. Scot's Tryal on Friday, October 12. 1660.**  
**At the Sessions-House aforementioned.**

*Clerk.* Set *Thomas Scot* to the Bar, (which was accordingly done) *Thomas Scot* hold up thy hand. These men that have been of the last Jury are to try, &c. If you will Challenge all, or any of them, you must Challenge them before they are sworn.

*Scot.* I desire that those men who have been of the former Jury may not be named. I know my liberty of excepting against my number.

*Lo. Ch. B.* *Mr. Scot*, That which you do desire is a thing not right; the Offence with one is not the same with others: I speak not but that the Court will do you all Right; the Court will grant it if you will waye your Challenges: but if you mean those that have been by others challenged, it is against Law.

*Scot.* I am willing to bring myself upon my Tryal, and I will take the ordinary way of Excepting and Challenging.

*Sir Hen. Wroth, Sir Jer. Whitchcote, James Hawley, Rich. Rider, Fra. Beale, Chr. Abdy, Nicho. Raynton, Tho. Winter, John Kerke, Rich. Abel, Sir Tho. Aleyn, Abr. Scudamore, Ralph Halsall, George Tirrey, Tho. Swallowe, Charles Pickerne, Arthur Newman, Tho. Blishe, William Vincent, Rich. Whaley,* were called and challenged.

*Thomas Grover, Edw. Rolfe, Tho. Usman, William Whitcombe, Rich. Cheney, Tho. Bide, Charles Pitfeild, John Smith, Tho. Morris, Tho. Fruen, Henry Twysford, Samuel Starnel,* were the Jury sworn.

*Clerk.* Cryer make Proclamation.

*Cyer.* O yes! If any man can inform my Lords the Kings Justices, &c.

*Clerk.* *Tho. Scot* hold up thy hand. You that are sworn of this Jury you shall understand that the Prisoner at the Bar stands Indicted by the name of *Tho. Scot* late of *Westminster* in the County of *Middlesex*, Gent. For that he, together with *John Lisle*, &c.



[ Here the Indictment was read. ] Unto which Indictment he hath been arraigned, and thereunto hath pleaded Not guilty; and for his Tryal hath put himself upon God and the Countrey, which Countrey you are. Now your Charge is to enquire whether, &c.

Mr. Sol. Gen. You that are sworn of this Jury, this Inquisition for blood, Royal Blood goes on against the Prisoner at the Bar, he stands Indicted for Compassing, Imagining, and Contriving the death of the late King of blessed Memory: It is laid to his Charge in the Indictment, That he did assemble at *Westminster*, and that he with other persons usurped an Authority of sitting and sentencing to death his said late Majesty, and that in consequence and pursuance of that the King came to his death: The Treason he stands charged with is the Compassing and Imagining the Kings death. The other parts of the Indictment are but overt acts, that do but evidence and prove the Corruption of his heart: If we prove but some of these overt acts, then you must find him guilty. Our Evidence against this Gentleman will be thus: We shall call Witnesses to prove his sitting in the Court, sentencing his King, while his King stood a Prisoner at the Bar; the Warrant for Execution of the King directed to certain persons to see Execution done accordingly, was under Hands and Seals; and among those Hands and Seals, the Hand and Seal of the Prisoner at the Bar is one: and then we shall produce to your Lordships Witnesses to shew you with what a hard and impudent heart this hath been Committed; for he so gloried in the Act, That he desired it might be writ upon his Tomb——

Mr. Nwley, M. Kirke, Mr. Masterfon and Mr. Clark sworn.

Coun. Mr. Masterfon, be pleased to tell my Lords and the Jury, if you have seen the Prisoner at the Bar sit in that which they called the *High Court of Justice*.

Mr. M. My Lords and Gentlemen of the Jury, I saw the prisoner at the Bar present at the High Court of Justice (as they call'd it) for the Tryal of the late King some days; that is to say, either upon the 22. or 23. day of Jan. 1648.

particularly upon the 27th day of that Month in the said year, when the Sentence of death was pronounced against his late Majesty, I saw the Prisoner at the Bar present.

*Coun.* As one of the Judges do you mean?

*Mr. Ma.* As one of the Judges sitting upon the Bench.

*Scot.* Do you know whereabouts I sat?

*Mr. Ma.* I cannot satisfy you in that; but I saw you sitting upon one of the Benches.

*Coun.* *Mr. Clark* you hear the question, pray answer what you know touching it.

*Mr. Cl.* My Lords, and you Gentlemen of the Jury, I was present in the year 1648. when his late Majesty stood a Prisoner at the Bar in that which they called the *High Court of Justice*; and among other persons there present in that business, I observed *Mr. Scot*, the Prisoner at the Bar, to sit as one of the Judges, and particularly upon the 23 and 27th days of *Jan.* in the said year, upon which last day the Court pronounced Judgement upon the late King.

*Coun.* Did he stand up as assenting to the Sentence?

*Mr. Cl.* They all stood up to my apprehension, I know not particularly whether the Prisoner at the Bar did.

*Coun.* *Mr. Kirke*, tell my Lords and the Jury your knowledge in this business touching the Prisoner at the Bar.

*Mr. K.* I was present at the Tryals of his late Majesty several days; among the rest of the persons that sat in the Court as Judges, I saw the Prisoner at the Bar, and particularly upon the day of the Sentence, the 27th of *Jan.* 1648. The Court stood up unanimously as assenting.

*Coun.* Shew him the Warrant for Execution.

*K.* This is his Hand.

*Coun.* Have you seen his Hand often?

*K.* Yes Sir, and am well acquainted with it.

*George Farrington sworn.*

*Coun.* Shew *Mr. Farrington* the Warrant; Do you know that to be *Mr. Scot's* Hand-writing.

*Mr. Farr.* I did not see him write it, but I do verily believe it to be his; I have often seen his Hand-writing.

*Coun.* Mr. *Nutley* do you know Mr. *Scots* hand-writing ? Is that Mr. *Scots* writing ? [ The Warrant shewn him ? ]

Mr. *Nutley*. I do verily believe it is.

*Coun.* Have you been acquainted with the writing of his name ?

Mr. *N.* I have seen him write his name, and do verily believe it to be his hand.

*Coun.* Clerk read the Warrant : He read it accordingly.

*Coun.* That which remains of our Evidence, is to prove his boasting of this villany ; We shall desire you to hear Sir *Theophilus Biddolph*.

Sir *Theo. Biddolph* sworn.

*Coun.* Pray tell my Lords and the Jury what you have heard the Prisoner say touching this business of putting the King to death.

Sir *Th. Bid.* I did hear him confess that he did sit as one of the Judges of the late King ; and that he was so far from repenting of the Act, that he did desire when he dyed, That a Tomb-stone might be laid over him with this Inscription, *Here lyes Thomas Scot who adjudged to death the late King.*

*Coun.* Where did he say this ?

Sir *T. B.* In the Parliament House.

Coll. *Copley*, Esq; sworn.

*Coun.* Pray Mr. *Copley* tell my Lords what you know of this business.

Mr. *Cop.* My Lord, I was one of the Secluded Members ; when we were called to sit in the House again, the Prisoner at the Bar, Mr. *Thomas Scot* ( I think it was the last day we sate ) there being some speaking of the horridness of the Fact, he made a long Harangue about that horrid Act ; and he said, *He hoped he should never repent of it*, and desired that when he dyed it might be written upon his Tomb-stone, *Here lies Thomas Scot, who adjudged to death the late King.*

*Coun.* We have done with our Evidence.

*Court.* Sir *Theophilus Biddolph*, When was it you heard him speak those words ?

Sir *T. B.* To my best remembrance it was in *Richards* Parliament ;

ment; it was about *January* or *February* was twelve months,

*Coun.* Were not you a Member for the City of *London* in that Parliament?

*Sir T. B.* Yes.

*Coun.* Mr. *Copley*, When was it that you heard it?

*Mr. Cop.* It was in *April* last.

*Mr. Soll. Gen.* It was a settled perswasion of his heart, and bathought it fit to be gloried in.

*The Lord Mayor Ele<sup>t</sup> sworn.*

*Coun.* Pray my Lord, tell my Lords what you know concerning the Prisoner at the Bar.

*Lord M. Ele<sup>t</sup>.* My Lords I was one of those Secluded members that were returned again a little before the coming in of His Majesty: Upon the last day of our sitting, Mr. *Scot* seeing the House must break, said, *Their heads must be laid to the Block if there were a new Parliament; For* said you (looking on Mr. *Scot*) *I confess I had a hand in putting the King to death, and I desire all the world may take notice of it, and I desire when I dye it may be written on my Tomb: I do not repent of anything I have done; if it were to do I could do it again.*

*Mr. Soll. Gen.* Do it again! He follows his blows home.

*William Lenthall Esq; sworn.*

*Coun.* Mr. *Lenthall* pray be pleased to tell my Lords and the Jury what you do remember of any discourse of Mr. *Tho. Scot*, (the Prisoner at the Bar) tending to the glorying in this Act, or any thing in Justification of that Act.

*Mr. Lenth.* My Lords, the last day it was, the last instant of time, We were resolving of breaking the House, there was some opposition in it, not very much: The general consent of the House was to dissolve it; I must confess at that time I did hear Mr. *Scot* much justify that Act of the death of the King (which truly I was much offended at) I confess to you upon my Oath touching his Speech of the Inscription upon his Tomb, I did not hear that: Justifying the death of the King he made a long Harangue about, and he stood at the upper end of the Gallery; but these words, *Of which is written upon his Tomb, and so have all the world take notice of it; I do not remember.*

*Coun.* My Lords, my Lord Mayor Elect omitted something; pray let him speak to it.

*Lo. Ma. Elect.* My Lords, the Conclusion of his Speech ended thus; *Being it is your pleasure to have it so (the House Dissolved) I know not how to hinder it; but when that is done, I know not where to hide this hated HEAD of mine.*

*Coun.* We desire to hear what the Prisoner will say for himself.

*Scot.* *I have no certainty from the Witnesses that I was there, but in a wandring way, they know not where I sate, nor my posture.*

*Mr. Baker sworn.*

*Coun.* We donot call this Witness as material, for we must insist upon it quite through, that after 12. years time it is not possible a Witness should remember where every particular person sate. Pray hear this Witness.

*Mr. Baker.* I do perfectly remember, That Mr. Scot sate two rows aboye Mr. Bradshaw on his left hand in that which they called the *High Court of Justice.*

*Scot.* *As to the Warrant you speak of I know not what it signifies, I desire to know what the nature of it is.*

*Coun.* The Warrant hath been read, it is not produced against him as a Record; for then it needed not be proved: but it is produced against him as an evidence in writing under his own hand that he was consenting to the death of the King.

*Scot.* *They may very much mistake my hand; You speak of words that I should utter in Parliament, I do humbly insist upon it, That I am not to answer, nor they alledge any thing of that nature: It is a high breach of Priviledge.*

*Coun.* There is no priviledge of Parliament for treason. First, some of the words were spoken in *Richards* Parliament, & that you do not own to be a Parliam. then another thing (a known rule in Law) there is no priviledge of Parliament for treason.

*Scot.* *I have heard the Rule, but do not so well understand it, that spoken in Richards Parliament; it will be a nice thing for me to distinguish between that and another Parliament; but I think, That Convention of the people ought to have the Priviledge of the Parliament as well as any other. I humbly conceive it was testimony ought not so be given to you; Whatever I say in Parliament*

Parliament, the Priviledge extends to no more than this, that it may be lawfully secured till the Parliament hath been acquainted with it, but not finally concluded till the Parliament have heard it.

*Lo. Ch. Bar.* You are Indicted for *Compassing and Imagining* the death of the King: I would have you understand, That in case a man should commit an Act of Treason, be it in what place soever, there is no place of Sanctuary for Treason; In case of Felony, if a man be Indicted for Felony in the Parliament House, during the time of Parliament, this is not to be tryed in Parliament, but according to the Rule of Common Law; So in case of Treason, the House of Commons in Parliament doth not try Treasons: That distinction which you make is nothing.

*Scot.* I humbly conceive there is such a Priviledge that no man shall ever be called to account for any thing spoken in Parliament, if he be not called to account by the House before any other Member be suffered to speak.

*Lord Ch. Bar.* That is, the House will not determine, but that doth not extend to your Case, you are not charged here criminally for speaking those words that have been testified against you, but for *Compassing and Imagining* the Kings death, of which there are other Evidences, and this but an Evidence to prove that.

*Scot.* My Lord, I never did say these words with that aggravation which is put upon them, I have a great deal of hard measure; as to say, I hope I shall never repent, I take God to witnesse, I have often, because it was spoken well of by some and ill by others, I have by prayers and tears often sought the Lord, that if there were iniquity in it he would shew it me; I do affirm I did not say so.

*Mr. Baker.* My Lord I omitted something, which was this, I had occasion to speak with Mr. Scot, whilst *Richard's* Parliament was sitting, and among other discourse insinuating upon some things that *Richard* had done, saith he, I have cut off one Tyrants head, and I hope to cut off another.

*Scot.* My Lord, This is but a single witness.

*Mr. Sell. Gen.* I suppose he meant *Rich.* for he was a Tyrant.

*Lord Ch. Bar.* Speak on Mr. Scot whatever you have to say.

*Sc.* Ifs he be laid aside as an impertinency, I have the less to say.

*L. Ch. Bar.* The next thing you have to do is to answer to the fact, whether you did it or did it not.

*Scot.* I say this, Whatever I did, be it morer less, I did it by the Command and Authority of a Parliamentary Power, I did sit as one of the Judges of the King, and that doth justify me whatever the nature of the fact was.

*L. Ch. Bar.* We have had these things alledged before us again and again: The Court are clearly satisfied in themselves that this act could not be done by any Parliamentary power whatsoever. I must tell you what hath been delivered, that there is no power on earth that hath any coercive power over the King, neither single Persons nor a Community, neither the people Collectively nor Representatively. In the next place, that which you offer to be done as by Authority of Parliament, it was done by a few members of the House of Commons, there were but 46 there at that time, and of these 46 not above 26 that voted it, at that time the House of Lords was sitting, who had rejected it, and without them there was no Parliament, there was a force upon the Parliament, there was excluded seven parts of eight: Supposing you were a full House of Commons, and that without exception, there was not Authority enough, and it is known to you (no man better) that there never was a House of Commons before this time, that this foul Act was made for erecting that High Court of Justice (as you call'd it) assumed that Authority of making a Law, you cannot pretend to act by Authority of Parliament; and because you would excuse it, you did it by Authority of Parliament, whether it were good or no; If a man do that which is unlawful by an unlawful Authority, the assuming to do it by that Authority, is an Aggravation, not an Extenuation of the Fact. It was over-ruled, I think my Lords will tell you, That they do not allow of that Authority at all, either to be for Justification or Plead.

*Scot.* My Lords I humbly pray leave to say, that without offence to the Court (every person whereof I honour) This Court hath not Cognizance to Declare whether it were a Parliament or no.

*L. Ch. Bar.*



*Lo. Ch. Bar.* That was objected too, and we must acquaint you, That first of all it is no Derogation to Parliaments, That what is a Statute or not a Statute, should be adjudged by the Common Laws. We have often brought it into question, whether such and such a thing was an Act of Parliament or not, any man may pretend to an Authority of Parliament: If forty men should meet at *Shooters Hill*, as the *Little Convention* did at *Westminster*, and say, *We do declare our selves a Parliament of England*: because they do so, shall not this be judged what is a Statute and what not? It is every days practise, we do judge upon it; the Fact is so known to every body, they did assume to themselves a *Royal Authority*; it hath been over-ruled already, it hath been the mistake of many, the vulgar acceptation of the word Parliament. A Parliament consists of the King, Lords and Commons; it is not the House of Commons alone; and so it is not by Authority of Parliament: It is not unless it be by that Authority which makes up the Parliament: You cannot give one instance, That ever the House of Commons did assume the Kings Authority.

*Scot.* I can many, where there was nothing but a House of Commons.

*Court.* When was that?

*Scot.* In the Saxons time.

*Court.* You say it was in the Saxons time, you do not come to any time within 600 years; you speak of those times wherein things were obscure.

*Scot.* I know not but that it might be as lawful for them to make Laws as this late Parliament, being called by the Keepers of the Liberties of England: My Lords, I have no seditious design; but so submit to the providence of God.

*Court.* This is notorious to every man: This we have already heard and over-ruled.

*L. Finch.* That that I hope is this, That Mr. Scot will contradict that which he hath said before; that is, That he hopes he should not repent, I hope he doth desire to repent. Mr. Scot, for this we must over-rule it, as we have done before; there is nothing at all to be pleaded to the Jurisdiction,



diation; and this point hath been determined before Scot. The Parliament in former times consisted not so much of King, Lords and Commons, but King and Parliament. In the beginning of the Parliament in 1641 the Bishops were one of the three Estates, if it be not properly to be called a Parliament, a legislative Power, though it be not a Parliament it is binding; If two Estates may take away the third, if the second do not continue to execute their trust, he that is in occupancy may have a title to the whole. I do affirm I have a Parliamentary Authority, a legislative power in justification.

Loi Ch. Bar. Mr. Scot, what you speak concerning the Lords Spiritual is nothing to your Case, be it either one way or other, it was done by an Act of Parliament, with consent of the King, Lords and Commons, though you will bring it down to make these Commons have a legislative Power, I told you it was over-ruled before. We have suffered you to expatiate into that which was a thing not intended by many of my Lords, that you should have any such power to expatiate into that which is nothing but indeed to make a new Government, which is the highest Treason next to the Murdering of the King in the world; To subvert the Laws, and to make a few of the Commons, nay, if they had been the whole, to make them to have the Legislative power. Mr. Scot, if you have any thing in extenuation of the Fact, we shall hear you, further we cannot.

L. Finch. If you speak to this purpose again, for my part I will profess my self, I dare not hear further of it; It is so poysonous blasphemous a doctrine contrary to the Laws, if you go upon this point I shall (and I hope my Lords will be of that opinion too) desire the Jury may be directed.

Scot. I thought my Lord you would rather be my Counsel, it is not my single opinion, I am not alone in this Case, therefore I think I may justify my self in it, it was the Judgement of many of the Secluded Members to own us to be a Parliament.

Lord Annesley. What you said last doth occasion my rising, you seem to deliver my opinion, who you know could never agree to what you have alledged; truly I have been heartily sorry to hear the defence you have made to day,  
because

because you know I have had Letters from you of another nature ; I was very confident to have heard you an humble Penitent this day instead of justifying your self : As to that which you say of the Secluded Members owing you to be a Parliament ; they were so far from it, that you know for how many years they lay under sufferings and obscurity, because they could not acknowledge that an Authority which was not so : You cannot forget the Declaration of both Houses that was published upon a Jealousie that the people had, they would change the Government of King, Lords and Commons ; It was far from their thoughts, it was called in that Declaration *A black scandal cast upon them* : This Declaration you know was by Order of both Houses affixed in all Churches of England that people might take notice what they held to be the Fundamental Government of this Kingdom, *King, Lords and Commons* : After this for you to set up another Government, and under them to act such things that one would think should hardly enter into the heart of any man. You know very well all along they declared themselves faithful Subjects to the King, and so would have lived and dyed ; and you might have had your share of the happiness of that peace, if you could have had an Inclination to submit to that which both Houses had resolved, when you and others could not bring your hearts to stoop to your Fellow Subjects, when you could not submit to that equal rule to take your share with them. When Pride carried some so high, then was the beginning of your fall and others, and none could expect other than what is now come to pass, That they should come to that shame and sorrow that this day hath brought upon you : I could have wished to have heard nothing but an humble confession of the fault that hath been clearly proved, and no Justification of it : You have sworn among others to preserve the Laws and People of the Kingdom ; but you drove away not only the House of Lords, but most of the Commons, and then to give the name of a Parliament to the Remainder, this is a great aggravation of your Treason. I think we of the Secluded Members could not have discharged our duty to

God

God and the Kingdom, if we had not then appeared in Parliament to have dissolved that Parliament, and so by our joynt assent put an end to all your pretences, which if we had not done, we had not so soon come to our happiness, nor you to your miseries.

*Lo. Ch. Bar.* The Court hath told you before their opinions in the thing, and no further debate is to be allowed in this, the Justification of it doth comprehend treason; We our selves are not by Law to allow the hearing of it. If you have nothing to say for your self I must give direction to the Jury.

*Scot.* *I humbly crave leave to move the Jury that they bethink themselves, and consider of it rather as a special Verdict than of a definitive one, I think there is cause of a special Verdict.*

*Court.* If there was need of a special Verdict ( We are upon our Oaths ) I should give direction to the Jury. What We do, We do upon our Oaths, and must answer it before God Almighty. The Court hath delivered their opinions before, that in this Case the Pretended Authority under which you did derive that Power which you did execute, that it is no Authority, it is void in Law, it is a foundation ( if it were true ) of subverting all Laws, and indeed of all Religion, a Power that you assumed to your selves of Judging and Condemning your King, that you would countenance such an Authority is a great aggravation of the fault. They are Judges whether you did Imagine or Compass the Kings Death, that is all the Jurors have to do. Gentlemen of the Jury ———

*Scot.* *I would know what particular Law I have transgressed in this thing.*

*Court.* The Law of God and Man. 25 Edw. 3.

*Scot.* *I humbly conceive that reaches not to this Case.*

*Court.* To satisfie you in that, the very words of the Statute are, *If any man do Compass or Imagine the Kings Death it is Treason*; The Indictment is, That you did Imagine and Compass the death of the King, if the Fact be proved against you, you are within the Statute.

*Scot.* *You will not say the King shall be a Traytor if he shall Compass the death of the Queen.*

*Court.*

*Court.* The Queen is a Subject.

*Scot.* I am not yet convinced.

*Lo. Ch. Bar.* Gentlemen of the Jury.

*Scot.* I do plead and claim that I am within the Compass of several Pardons; and desire Council in that particular; I do come within the Compass of his Majesties Pardon.

*Lo. Ch. Bar.* If you had not gone on to matter of Justification, you might have been more heard to this of Pardon; but after a Justification then to come for a Pardon, which implies a confession of Guilt, they are contradictory: I must tell you we are now upon point of Law, That Proclamation I doubt not but his Majesty will inviolably make good; but we are not to judge of that, it is nothing to a legal proceeding: You are now in a Court of Law, it is not to be pleaded in a Court of Law; the Kings Pardon in Law must be under his Broad Seal: How far you are under that Proclamation, care will be taken, and what is fitting to be done, will be done; but it is nothing in the matter of the Charge to this Jury.

*Scot.* I desire Council touching the Statute of 25 Edw. 3.

*Court.* You should have done it before you had confessed the Fact.

*Scot.* I may do it in Arrest of Judgement.

*Lo. Ch. Bar.* Mr. Scot, for that of the Kings Proclamation, if you be within the benefit and compass of it, according to his Royal Word and Honour in it, you will have the benefit of it; but it is not a Plea in Law, but it must be a Pardon under Seal; whatsoever concerns that Proclamation will be considered: It is nothing to the matter whereupon the Jury are to go.

*Lord Chief Baron.* Gentlemen of the Jury, you see the Prisoner *Tho. Scot*, stands Indicted for Compassing and Imagining the death of our Dread Sovereign King *Charles* the First of most glorious and blessed memory; He is Indicted for Compassing and Imagining his death, there is the Treason; and what is set afterwards in this Indictment is only to manifest this Compassing and Imagining, because that being in the heart alone without some overt Act no body can prove it: There are several overt Acts laid in the Indict-

Indictment; one is, A Trayterous consulting and meeting together how to put the King to death: Then a sitting upon the King as a Prisoner, being before them, about his life and death; The third is Sentencing to death: that which followed is, That he was Murdered: If any of these acts should be proved, the Indictment is proved; for the proof, there are several Witnesses have fully proved that he did sit there several times, particularly upon Jan. 27. which was the day of the Sentence: That he did sit there, all of them agree to that; It is true as to the Circumstance where he sat; one Gentleman saith he sat in the second Row, on the left hand of *Bradshott*; you well remember it is 12. years ago, how any man upon the view, and after so long a distance of time should be able to remember in what posture one man was from the rest; I think neither you nor I can remember: Here is one proved to you that he did sign that Warrant for Executing the King; he saith, *How can another know his Hand?* You see what the Witnesses say, they knew it; a man can prove nothing more of another mans Hand than that, unless they see it written, there is nothing to put upon you but his words: You see what words are aggravated against Mr. *Scot*; Whereas he saith, It is a breach of the Priviledges of Parliament; if it were so, it is nothing to this Fact, though another man should break the priviledges of Parliament, it is nothing to you; but besides it is not a breach of the priviledge of Parliament: You have heard the Witnesses what they have said against him: Mr. *Lee* shall swear that he did speak at large fully in owning that business of the Kings death; The rest swear positively to the same effect, and that at several times; What was that? He gloried in it, defended it, and said, *He could wish it were known on his Tomb Stone*; he hath denyed this that the Witnesses have proved: That which is left to you is, whether upon all this matter that you have heard, Whether the Prisoner at the Bar is Guilty of Compassing and Imagining the Kings death; and so go together ~~separated~~ After a little Consultation together, they sat in their places again.

*Clerk, Tho. Scot* hold up thy hand. Look upon the Prisoner

ner at the Bar; How say you, is he Guilty of the Treason whereof he stands Indicted, or not Guilty?

*Jury. Guilty.*

*Cl. Look to him Keeper.*

*Cl. You say the Prisoner is Guilty, &c. and so you say all.*

*Jury. Yes.*

*Cl. Set Mr. Scot aside.*

*Clerk. Set John Jones and Gregory Clement to the Bar.*

Which was done accordingly.

Thereupon the said *Gregory Clement* preferred his Petition to the Court. Indictment read against them both.

*La. Ch. Bar.* If you do confess your Offence, your Petition will be read.

*Clem. I do my Lord.*

*Lord Ch. B. Mr. Clement,* if you do confess (that you may understand it), you must when you are called, and when the Jury are to be charged. You must say (if you will have it go by way of Confession) That you Wave your former Plea and confess the Fact.

*Clerk. Gregory Clement,* you have been Indicted of High Treason, for Compassing and Imagining the death of his late Majesty, and you have pleaded not Guilty; Are you contented to wave that Plea and confess it?

*Clem. I do confess myself to be Guilty my Lord.*

*Clerk. Set him aside.*

*Clerk. John Jones,* hold up thy hand. These men that were last called, &c. if you will Challenge all or any of them, you must Challenge them when they come to the Book, and before they are sworn.

*Jones. I confess I saw amongst them some days, but not maliciously contrived the death of the King.*

*Cour.* He is troubled at the Form, he confesseth the Matter, That he was there sitting in the High Court of Justice. If he will not confess it, he knows we can prove his Hand and Seal to that bloody Warrant. He is troubled that he is said to have Trayterously and Maliciously Contrived the Kings death: He that doth these Acts towards it, is by Law responsible as to the Malice.

*Jury*

*Jury Sworn.*  
 Sir Tho. Allen, Sir Henry Wroth, Sir Jer. Whitcott, James  
 Hawley, Henry Mildmay, Christ. Abdy, Nich. Raynton, Richard  
 Cheney, Tho. Bide, Charles Pitfield, Abraham Scudamore, Charles  
 Pickerne, in all 12.

Cl. Cryer make Proclamation.

Cryer. If any man can inform, &c.

Cl. John Jones hold up thy hand. Look upon the Prisoner, &c.

Mr. Soll. Gen. My Lords and Gentlemen of the Jury, I must open to you as to other Juries, that the short Point of this long Indictment is but this, That the Prisoner at the Bar did Imagine and Compass the death of the King, which is your Issue to Try. We shall prove it by those overt acts which the Law doth require. To prove the Sitting, Sentencing and Signing the Warrant for Execution, by the Prisoner at the Bar.

Coun. Call Mr. Clark and Mr. Carr, and Holl. Symson, who were sworn.

Mr. Symson did you see the Prisoner at the Bar sitting in that which they called the *High Court of Justice*?

Sym. I did see Mr. Jones sit divers times both there and in the Painted Chamber.

Jones. I do confess I sate divers times.

Coun. Did he sit the day of Sentence?

Sym. I cannot say it.

Coun. Mr. Clark you hear the question; Pray answer my Lord.

Clark. My Lords and Gentlemen of the Jury, I was there the 27. of Jan. 1648. I saw Coll. Jones there several days before; but I did not see him that day; his name was called, but I do not know whether he was present.

Coun. Mr. Carr did you see him sit on the 27th. day, which was the day of Sentence?

Carr. My Lords he answered to his name some days, I am not able to tell what day. Mr. Nusley Sworn.

Coun. Can you tell whether the Prisoner at the Bar was present in that which they called the *High Court of Justice*.

Nusley. The Prisoner at the Bar was several times in the Court



Court which was called the *High Court of Justice*; truly I can not say whether he was there the 27th day, the day of the Sentence.

The Warrant for Summoning that Court being shewed.

*Coun.* Is that Mr. Jones's Hand (the Prisoner at the Bar) set to that Warrant?

*Nut.* I have been acquainted with his Hand, I do believe it is.

The Warrant for Execution was also shewed.

*Coun.* Is that the same Hand-writing?

*Nut.* Yes I believe it is; he hath written several Letters to me.

Mr. Hartlib Sworn.

*Court.* Mr. Hartlib, do you know Mr. Jones's Hand?

*Hart.* I never did see him write; but I have seen several Letters out of Ireland, and other Papers which have been supposed to be his Hand-writing: This seems to be like that which was reputed to be his Hand.

*Coun.* Mr. Clark do you know Mr. Jones's Hand-writing?

*Cl.* I have seen several Letters of Col. Jones, and these are like his Hand-writing; I do believe they are his Hand-writing.

Mr. Jones looks upon them both, and confesses they are like his hand-writing.

*Coun.* We have given our Evidence: What do you say for your self before Charge be given to the Jury?

*Jones.* I have little to say; your Lordships have already heard what is to be said in this Case; I have nothing to say to the point; I am not fit to plead any thing, especially in matter of Law: I must wholly put my self upon the Lord, and this Honourable Court and Jury.

*Lo. Ch. Bar.* Gentlemen of the Jury, here is this Prisoner John Jones stands Indicted, for that he with others did Com- pass and Imagine the Kings death, that is the substance of the Indictment; The Indictment sets forth several Acts, each proving the Compalling and Imagining the Kings death: One of them is, that he did consult and meet together, and pro- pound how the King should be put to death: The second is, they did assume a power to Judge the King The third is, that they did actually sit upon him; And the last of them is, that they sentenced the King, and afterwards the King was murdered. The whole substance is, whether he did Com-



pass and Imagine the Kings death. If any one of these particulars that are alledged for the overt acts be proved, you are to find the Indictment. He hath confessed very Ingenuously, that he did sit upon the King, that he did sit in that Court, and so there is an overt act proved, if nothing else you ought to find him guilty of this Treason. There is further Evidence (though not any Evidence of his sitting the last day of the Sentence) you have had three comparing similitudes of hands to prove that he did sign that Sentence, that horrid Instrument whereby the King was ordered to be put to death, one of them having received Letters from *Ireland*, and others acquainted with his hand, say that it is like his hand ; he hath so confessed the likeness of his hand, but he saith he doth not remember he signed it. As to you of the Jury there is no more to be considered, if any one of the acts do appear true to you, that is sufficient to find him guilty, (though he were not guilty of all) but that he did Compass and Imagine the Kings death is clear, in sitting, and signing the Warrant ; for the other, whether you shall find that he did sentence the King, that must be left to you. Whatsoever it is still it is the same, if any one be proved, you ought to find him guilty of the Indictment, which is the Compassing and Imagining the Kings death. I think you need not stir, from the Bar ; for he hath confessed it.

The Jury went together, and after a little Consultation returned to their places.

Clerk. Are you agreed of your Verdict ?

Jury. Yes.

Cl. Who shall say for you ?

Jury. Our Foreman.

Cl. *John Jones* hold up thy hand. Look upon the Prisoner at the Bar. How say ye, is he guilty, &c.

Foreman. Guilty.

Cl. Look to him Keeper.

Cl. You say the Prisoner at the Bar is guilty, &c. and so you say all.

Jury. Yes.

Cl. Set all that have been tried this day to the Bar.

Lord

Lord Ch. Bar. Mr. Scot I must speak a word to you; you made mention of the Kings Proclamation for pardon, and you did desire the benefit of it. As I told you before, so now again, That it was not proper for us upon that Proclamation to give any allowance by way of Plea, because the Pardon ought to be under the Broad Seal, but God forbid but just and due Consideration should be had of it with honour; so far as you are comprehended within it: Though Judgment shall pass, no Warrant for Execution shall go out against you; till consideration be had how far you are within the Compass of that Proclamation; and the like to you Mr. Scroop.

Clerk. *Adrian Scroop*, Hold up thy hand. Thou hast been Indicted of High Treason, and hast thereof been found guilty: What canst thou say for thy self why Judgement should not pass for thee to dye according to Law?

Scroop. *I do humbly submit to his Majesties mercy.*

Cl. *John Carew*, Hold up thy hand. Thou art in the like Condition with the former, what canst thou say, &c.

Carew. *I commit my cause unto the Lord.*

Cl. *Thomas Scot*, Hold up thy hand, thou art in the like Condition with the former, what canst thou say, &c.

Scot. *I shall only say, I do only cast myself upon his Majesty and pray mercy.*

Cl. *John Jones*, Hold up thy hand, thou art in the like Condition with the former, what hast thou to say, &c.

Jones. *I pray his Majesties Clemency.*

Cl. *Gregory Clement* hold up thy hand; Thou standest Indicted of High Treason; and thereunto hast pleaded guilty; What canst thou say, &c.

Clem. *I pray mercy from the King.*

Lo. Ch. Bar. You that are Prisoners at the Bar: Ye see the Sentence of death is now to pass against you; and for ought you know, or we know yet, may be nearer than you are aware: How soon it will be executed we know not; when you have reflected upon your own consciences, many of you could not chuse but look there and see as in a glass, the foulness of this horrid Offence: It is the Murder of our most gracious Sovereign King Charles the First of blessed memory; a

Prince whom we (such of us as had the honour personally to attend him) knew, was of such parts and vertues, if he had been a private man more could not have been desired; truly what he did as a King, his Clemency; how it appeared at first in this Princes time: If you look what Peace and Prosperity we enjoyed in his days, we will not find it in other Kings times; You had not a Noble-man put to death save one, and that for an Offence which must not be named: A Prince that had granted so much: You may remember what was granted before the beginning of these Wars: Grievances complained of, Star-Chamber, High Commission Court; Ship money; The *Claim* of Stannery, &c. All these were taken away: What Concessions he made after in the *Isle of Wight*; how much he wooed and courted the people for Peace. I urge this unto you only that you would lay it to your hearts, that you would consider what it is to *Kill a King*, and to kill such a King. If any of you shall say, That we had no hand in the actual Murther of the King, remember that they that brought him to the Bar, were all one as if they had brought him to the Block, as St. *Paul* confessed, though he held but the Clothes, he killed the Martyr *Stephen*. You are shortly to appear before Gods Tribunal, and I beseech God Almighty that he will give you, and us all, those hearts, that we may look into our selves; No fig-leaves will serve the turn; whatsoever you have said now as Prisoners, or allowed to say for your own preservation in point of Fact, *Notwithstanding* it will not serve before God Almighty: All things are naked before him. Lay it to your hearts: God Almighty though you have committed these foul and horrid sins, yet he can pardon you, as he pardoned that murther of *David*: I speak it to you, that you may lay it to your hearts; I am heartily sorry in respect you are Persons of great Civility and (those that I know) of very good parts; and this I must say, That you will consider with your selves, if any of you have been led away, though it were with his own conscience; if any of you did it as you conceived in conscience, remember that our Saviour saith, *The time shall come when they*

they will persecute you and kill you, and think they do God good service. I have the Judgment of Charity, possibly some of you did it in this kind, and this is less than doing it wilfully; others might do it by a mis-guided Conscience; there is a spiritual pride, men may over-run themselves by their own holiness, and they may go by pretended Revelations: Men may say I have prayed about such a thing, I do not speak it with reproach to any; If a man that should commit a Robbery or Murder, merely because he will, and should come and say, I have prayed against it, and cannot understand it to be a sin, as one in *Shropshire* did, and yet notwithstanding killed his own Father and Mother; try your own spirits, you must not think that every Fancy and Imagination is conscience; Men may have a strange fancy and presumption, and that they may call conscience: Take heed, there is a spiritual pride; the Devil doth many times appear like an Angel of light, do not rest upon that self-confidence: Examine your hearts, consider the Fact by the word of God; That is the rule, the Law is to be applied to it; *Eccles. 8. Where the word of a King is, there is power; and who can say unto him, What dost thou?* that is to shew the power of Kings in Scripture: Remember withal that of *David* in *Psalms* 51. that penitential *Psalms*, when he had committed that horrid sin against *Uriah*; Remember what he said being a K. *Tibi soli peccavi, Against thee only have I sinned*; Truly it being in such a Case, I speak it as before God almighty, according to my duty and conscience; I wish most heartily as to your Persons: I pray God to give you that grace, that you may seriously consider it, and lay it to heart, and to have mercy upon you, and to forgive you; And this is all that I have to say; and now not I, but the Sentence of the Law, the Judgment which I have to give against you is this, *You Prisoners at the Bar, the Judgment of the Court is, and the Court doth award, that you be led back, &c.* And the Lord have mercy on your Souls.

Clerk, Cryer make Proclamation.

Cryer, O Yes, &c. All manner of Persons, &c. Jurors and Witnesses to appear to morrow morning at seven of the Clock at this place; So God save his Majesty.

*Sessions-House Old-Bayly, Octo. 13. 1660. The Court being Assembled, Proclamation was made.*

*Clerk of the Court.* Set Cook, Peters, Hacker and Axtel, to the Bar : They being brought the Keeper was afterwards ordered to take back all except M. Cook.

*Cl. John Cook* hold up thy hand, &c.

*Jury.* Sir J. Whitchcot, James Hawley, Jo. Nichol of Henden, Tho. Nichol, F. Thorn, Edw. Wilford, Wil. Gumbleton, Jo. Shilbury, Tho. Jenney, Tho. Willet, Sir H. Wroth, Rich. Cheney, of the Jury called and Sworn.

*Mr. Cook.* May it please your Lordship, I do not know any of these Persons, I beseech your Lordship that in regard the safety of my life depends upon the indifferency of these Persons, that your Lordship may demand of the Sheriff to know whether he hath not heard them say, or any of them, that they are preingaged, I hope they are not, and thereupon I have not challenged any.

*Lo. Ch. Bar.* Sir, the Officer reads their names out of his Papers, I suppose he doth not pick and chuse them; I would not have him, and I am sure he will not do you any wrong in that particular.

*Cook.* My Lord I am satisfied.

*Cl.* If any man can inform, &c.

*Cl. J. Cook* hold up thy hand.

*Cook.* My Lords, I desire Pen, Ink, and Paper.

*Lo. Ch. Bar.* Give it him.

*Cl. J. C.* Hold up thy hand. You that are sworn look upon the Prisoner : You shall understand, &c. (Here the Indictment was read as before.)

*Mr. Sol. Gen.* May it please your Lordships, and you Gentlemen that are sworn of this Jury, the Prisoner at the Bar stands Indicted for High Treason for Compassing and Imagining the death of the late K. of Blessed Memory : The Indictment sets forth, That he, together with others, did assemble at Westminster Hall, and sets forth many other particulars of sitting, sentencing, and of the consequent Death and Murder of the King. The matter and charge of the Indictment is

for

for Compassing and Imagining the Death of the King, the rest of the Circumstances of the Indictment are but alledged as overt acts to prove the Imagination, which only is the Treason. This Prisoner at the Bar stands here Indicted for this Treason of Compassing and imagining the late Kings Death. My Lord, his part and portion in this matter will be different from those that have been tryed before you, they sat as Judges to sentence the King, and he, my Lord, stood as a wicked Instrument of that matter at the Bar, and there he doth with his own hand subscribe and exhibite a charge of High Treason, a scandalous Libel against our Sovereign to that pretended Court to be read against him as an accusation in the name of all the people of *England*; when he had done that, he makes large discourses and aggravations to prove (if it had been possible) innocency it self to be Treason: When he had done, he would not suffer his Majesty to speak in his defence, but still took him up, and said, that he did spin out delays, and desired that the charge might be taken as if he had confessed it: He pressed the Court that Judgment might be given against the King; he was the man that did demand that wicked Judgment before the Court pronounced it; and he was the man that did against his own Conscience, after he had acknowledged that he was a wise and gracious King, yet says he, *That he must dye and Monarchy with him*, there in truth was the Treason and the cause of that fatal blow that fell upon the King. This was his part to carry on; how he did it as a wicked Counsellor we shall prove to you, and the wages and reward of the Iniquity that he did receive.

*James Nutley Sworn.*

*Council.* Pray tell the Circumstances of the Prisoners Proceedings at *Westminster Hall*, when he did exhibite a Charge against the King.

*Mr. Nutley.* My Lords, the first day of bringing his Majesty to his Tryal, was *Saturday, Jan. 20. 1648.* Before they sate in publick, they that were of the Committee of that which they called the *High Court of Justice*, did meet in the Painted Chamber, which was in the forenoon of that

day. Being there I did observe that there was one *Price* a Scrivener that was writing of a Charge; I stood at a great distance and saw him write, and I saw this Gentleman the Prisoner at the Bar near thereabouts where it was writing, I think it was at the Court of Wards. This charge afterwards (a Parchment writing) I did see in the hands of this Gentleman the Prisoner at the Bar. A very little after that they called their names they did adjourn from the Painted Chamber into *Westminster Hall*, the great Hall. The Method that they observed; the first thing was to call the Commissioners by name in the Act; the pretended Act for trying the King was read; that is, when the Court was sat, the Commissioners were called by their names, and as I remember they stood up as their names were called: The next thing was reading the Act for the trying of his late Majesty. After that was read, then this Gentleman, the Prisoner at the Bar presented the Parchment Writing, which was called the *Impeachment* or Charge against his Majesty: Mr. *Bradshaw* was then President of that Court, and so called Lord President; he commanded that the Prisoner should be sent for, saying, *Serjeants Dently send for your Prisoner*; thereupon the King was brought up as a Prisoner, and put within a Bar: And when the Court was silenced and settled, this Gentleman the Prisoner at the Bar did deliver the Charge, the Impeachment to the Court, and it was read: The King was demanded to plead to it presently. Here I should first tell you, that upon the King's first coming in there was a kind of a Speech made by Mr. *Bradshaw* to the King in this manner, I think I shall repeat the very words, *Charles Stuart King of England, the Commons of England assembled in Parliament taking notice of the effusion of blood in the Land, which is fixed on you as the Author of it, and whereof you are guilty, have resolved to bring you to a tryal and Judgment, and for this cause this Tribunal is erected: There was little reverence given to his Majesty then, which I was troubled at: he added this further, That there was a charge to be exhibited against him by the Solicitor General; I think this Gentleman was so called at that time, and he called to him to exhibit*



the Charge; and this *Gentleman*, (the Prisoner at the Bar) did deliver an Impeachment, a Parchment writing, which was called a Charge against the King at that time, which was received and read against him.

*Court.* Did you ever see the Charge (which was now shewn to Mr. *Nutley*?)

*Mr. Nut.* My Lords I do believe that this is the very Charge, I am confident it is the same writing; I have often seen him write, and by the Character of his hand this is the same.

*Council.* Go on with your story.

*Mr. Nut.* My Lords immediately upon the delivery of this Charge of Impeachment which was delivered in the Kings presence, after it was read the King was demanded to give an answer to it, His Majesty desired to speak something before he did answer to the pretended Impeachment (for so his Majesty was pleased to call it) He did use words to this purpose, saith he, I do wonder for what cause you do convene me here before you: he looked about him, saith he, I see no Lords here, where are the Lords? upon this Mr. *Bradshaw* the President, for so he was called, did interrupt his Majesty, and told him, Sir, saith he, you must attend the business of the Court; to that purpose you are brought hither, and you must give a positive answer to the Charge: saith the King, you will hear me to speak, I have something to say before I answer: after much ado, he was permitted to go on in the discourse he was in, so far as they pleased. His Majesty said, I was in, the Isle of *Wight*, and there I was treated with by divers honourable persons, Lords and Commons, a treaty of peace between me and my people, the treaty was so far proceeded in that it was near a perfection: truly (saith he) I must needs say, they treated with me honourably, and uprightly, and when the business was come almost to an end, then (saith he) was I hurried away from them hither, [I know not by what Authority, now I desire to know by what Authority I was called to this place: that is the first question I shall ask you before I answer the charge. It was told him by Mr. *Bradshaw* the President, that the Authority that called him hither was a lawful Authority: he asked him what Authority it was, the second time: it was answered him by the President, that it was the Authority



Authority of the Commons of *England* assembled in Parliament, which he affirmed then to be the Supreme Authority of this Nation: the King said; I do not acknowledge its Authority: Authority if taken in the best sense, it must be of necessity understood to be lawful; therefore I cannot assent to that: I am under a Power, but not under an Authority: and there are many unlawful Powers: a Power that is on the high way, I think I am under a Power, but not under an Authority, you cannot judge me by the Laws of the land, nor the meanest Subject. I wonder you will take the boldness to impeach me your lawful King. To this purpose his Majesty was pleased to express himself at that time, with more words to that purpose. The King went on to further discourse concerning the Jurisdiction of the Court. *Bradshaw* the President was pleased to interrupt him, and told him several times, that he trifled out the Courts time, and they ought not to indure to have their Jurisdiction so much as questioned.

*Court.* Pray go on.

*Mr. Nulty.* This Gentleman at the Bar, I did hear him demand the Kings answer several times: a positive answer was required of the King: the K. often desired to be heard, and he interrupted him again and again, several times; and at length it was pray'd that the charge that was exhibited against him might be taken *pro confesso*.

*Court.* By whom?

*Nulty.* By the Prisoner at the Bar, if so be that he would not answer. This my Lord is the substance of what I have to say against him.

*Council.* *Mr. Nulty*, pray, what discourse have you had at any time, with the Prisoner at the Bar, concerning this impeachment?

*Nulty.* Truly my Lord, I knew the Gentleman well, I was well acquainted with him, and for the satisfaction of my own conscience ( for I was very tender in the business, and sorry he was engaged in it ) I went to him and did desire him to desist; I had discourse with him ( for I was then a young Student in the Temple, and had a little knowledge in the Laws: ) I desired him to consider the dangerous consequences

quences of such a proceeding ; I may say I did it with tears in my eyes, for I had a very good respect to the Gentleman for his profession sake, being learned therein : truly my Lord he did answer me thus, *I acknowledge it is a very base business, but they put it upon me, I cannot avoid it, you see they put it upon me.* I had some discourse with him concerning the oath of Allegiance : truly he was satisfied that this oath was against the business in question ; I saw he was troubled at it.

*Council.* Can ye speak of the manner of calling for Judgement against the King ?

*Nutly.* That ( I have already answered to it ) was several times done ; the King was brought several times to the Bar, and at every time he was brought, he was pressed to answer whether Guilty, or Not guilty.

*Court.* By whom ?

*Nutly.* By the Solicitor, then, the Prisoner now at the Bar, My Lord, I remember his Majesty was pleased, when he saw he could not be heard to the discourse that he did intend to make of the whole business ; saith the King, if you will needs press me to an answer, I must demur to your Jurisdiction: my Lord, the answer that was given to that was this, *Mr. Bradshaw* there then President did say, Sir, saith he, if you demur to the Jurisdiction of this Court, I must let you know that the Court doth over-rule your demurrer ; this was said my Lord, and Judgement was pressed very often.

*Court.* By whom ?

*Nutly.* By the prisoner at the Bar.

*Cook.* My Lord, may I ask him a question ?

*Court.* Yes.

*Cook.* The first question is, whether the Parchment was delivered by me unto the Court, or brought into the Court by *Mr. Broughton*, the Clerk.

*Mr. Nutly.* I do encline to believe (my Lord) That it was brought into the Court, and delivered by some hand or other, to the Prisoner at the Bar, I do beleive it was, for I do remember it was written by one *Price* ; I was told that was his name : that may be true, I believe it was brought into the Court and delivered to the Prisoner now at the Bar.

*Council.*

*Council.* But did he exhibit it?

*Nutly.* Yes my Lords.

*Cook.* Did you see me set my hand to that Parchment?

*N.* No my Lords, but I believe it to be his hand.

*Cook.* Another Question, whether Mr. *Nutly* did hear me say concerning the opinions of those Gentlemen, what they intended to do in that business?

*Nut.* My Lords I do remember that I had often conference with the Gentleman at the Bar.

I desired him to desist from the business, considering the dangerous consequences of it: truly my Lord, I do well remember that he did say he did hope they did not intend to take away the Kings life: said I, if they go about any such thing, do you use your utmost endeavour to preserve his life: saith he, I did labour to that purpose, but they tell me, they only intend to bring him to submit to the Parliament.

*Cook.* It is said that I demanded Judgement of his life, Mr. *Nutly*, I demand of you, whether I used the words of Judgement against his life, but only I demanded their Judgement.

*Nut.* My Lords, for that, I cannot remember possibly to a syllable, but Judgement was demanded.

*Court.* By whom?

*N.* By this person.

*Cook.* I said the judgment of the Court, not against him, I meant judgement for his acquital.

*Court.* Did you ever hear him desire the Court that the Charge might be taken *pro confesso*?

*N.* That I have said my Lord, it was urged by the Prisoner at the Bar against his Majesty, That if he would not plead to the Charge, that then the matter charged in it might be taken *pro confesso*: But my Lord, if you please to give me leave to add this one word more, my Lord, I did hear him say at that time; he shewed me a paper that contained an order of the Court that did direct the very words that he should use when he came to deliver the Charge, whether those words were in the order I do not know.

*Cook.* Whether was I not directed by those Gentlemen the very words I should speak?

*Court.*

*Court.* We are satisfied in that; he saith by an order, that you shewed him, you were so directed. If you have any thing more, ask it him.

*Mr. Farrington* sworn.

*Mr. Sol. Gen.* Pray tell my Lords and the Jury, what was the carriage of the Prisoner at the Bar, at *Westminster*, at the place they called the High Court of Justice.

*Farringt.* My Lord, I was present about the 20th of *Jan.* 1648. at that which they called the High Court of Justice, and *Mr. Bradshaw* sat then as President, so much as I remember concerning the Prisoner at the Bar, I shall acquaint your Lordship. This Gentleman at the Bar, after the reading of the Commission, and directions by the President, to bring his Majesty (the prisoner they called him) to the Bar; the King being brought, after silence made, and some speeches made by the President, this Gentleman the Prisoner at the Bar, having then a Parchment in his hand, the substance of it was for levying War against the Kingdom, he prayed that it might be read and accepted as a Charge in behalf of the good people of *England*. It was accordingly read, and afterwards being demanded to answer, after his Majesty having given several reasons as to the Jurisdiction of the Court, four days, every day the Prisoner at the Bar demanded the judgement of the Court. And if his Majesty would not answer to the charge, it might be taken *pro confesso*.

*Coun.* Do you know his hand if you see it?

*Farringt.* I have not seen his hand a long time: Then the Impeachment was shewn to the witness.

*Far.* Truly Sir, this is like his hand.

*Coun.* Do you believe it?

*Far.* It is very like it, I do not know positively.

*Coun.* Did you hear the words *pro confesso*?

*Far.* Yes my Lord, several times after the first day.

*Coun.* Did he interrupt the King in his discourse, as to say these words, that the Charge might be taken *pro confesso*?

*Far.* I do remember one day there was some interruption between the King and him, the King laying his Cane upon his shoulder desiring him to forbear.

*Cock.* You cannot say that I interrupted his Majesty.

*Far.*

*Far.* I remember that the King laid his Cane upon your shoulders.

*Cook.* Whether did I the first, or the last day demand judgement, or that any thing might be taken *pro confesso*?

*Far.* The first day? no, but after the first day he did several days, you did the last day.

*Griffith Bodurdo Esq; sworn.*

*Coun.* Sir, you have heard the question, give an account to my Lords, and Gentlemen of the Jury, of the carriage of the Prisoner at the Bar towards his Majesty during the time of the Tryal.

*Mr. Bod.* My Lord, I was all the time that the King was brought there before the Court, as a Prisoner, I was present all the day, having a conveniency out of my house into a Gallery, that was some part of it over that Court. I do remember that the Prisoner at the Bar (whom I never saw before that time) did exhibit a charge the first day against the Prisoner at the Bar, which was the King, in these very terms, *The Prisoner at the Bar*: the charge I heard it read, then; I have not seen it since; the substance was this. That for levying war against the Parliament and people of *England*, and namely at such and such a place killing of the people of *England* (I think *Naseby* and *Keinton* field was named in it, and divers other places were named in the Charge,) and the Conclusion was that he had done those things as a Tyrant, Traitor, Murtherer, and a publick and implacable enemy of the *Commonwealth*. But this Prisoner at the Bar did exhibit the Charge, and the King did then, as you have heard he did, plead to the Jurisdiction of the Court. The King would fain have been heard, but I think they did adjourn for that time. The next day he pleaded the same thing, I remember the answer that was several times given; twice given by *Bradshaw* to the King: thus, that the Court did assert their own Jurisdiction. The second and third day, I do not remember any day after the first, but that the prisoner at the Bar did demand judgement for the Kings not pleading, and did several times make complaints to the Court of the Kings delays, that he intended delays and nothing else.

*Cook.* Pray my Lord, one Question, whether my Lord, before he heard me speak of demanding judgement against the King, whether he did not hear Mr. *Bradshaw* several times say that the Court owned their Authority, and that the matter would be taken *pro confesso*?

*Mr. Boduredo.* I did hear the Prisoner at the Bar desire of the Court, that it might be so; and I heard the Prisoner tell the King that it must be so. *Joseph Herne* sworn.

*Coun. Mr. Herne,* tell my Lords, what you know of the prisoners carriage at the High Court of Justice, as they called it.

*Mr. Herne.* Upon Saturday the 20th of Jan. 1648. it was the first day His Majesty was convened before them.

I could not come near the Court; only I saw him at a distance, I heard nothing, but the acclamations of the people crying out, *God save your Majesty*: what was done in the Court I know nothing of. On Munday I was there, and had a conveniency to see and hear what was acted; and so His Majesty being come to the Seat appointed for him, the prisoner at the Bar being called upon by the then President *Bra.* he demanded of him what he had to ask of the Court. He was then talking with *Dorilaus*, and seemed not to mind the business of the Court. His Majesty sitting near, takes his stick and thrusts the Prisoner at the Bar upon his shoulder; and the Prisoner looking back with a great deal of indignation turned about. I did hear *Bradshaw* speaking to him in these words, Mr. *Sol.* have you any thing to demand of the Court? whereupon the prisoner at the Bar did use these or the like words? May it please your Lordships, I have formerly in the name of the Commons assembled in Parliament and the good people of England exhibited a Charge of High Treason and other high crimes against *Charles Stuart* the prisoner at the Bar, slinging his head back in this manner to him. He had there further to require of the Court that he might be demanded to make positive answer, by confession or denial; if not, that the Court would take it *pro confesso*, and proceed according to Justice: this was on the first day I was in the Court. The President *Bradshaw* told His Majesty, that he heard what was craved

ved in the name of the Commons assembled in Parliament and the good people of *England* against him by the now Prisoner at the Bar. The King stood up, but *Bradshaw* prevented him in what he had to say, telling of him that the Court had given him time to that day to know when he would plead to the Charge. His Majesty proceeded to object against the Jurisdiction, and said he did demur to the Jurisdiction of the Court; upon which the President answered him, If you demur to the Jurisdiction of the Court, you must know that the Court hath over-ruled your demurrer, and you must plead to your Charge, guilty or not guilty: upon that the King asked their authority, and desired he might give reasons against it; he was denied by the President, the President at last was content to tell him, that though he was not satisfied with their authority, they were, and he must: but to satisfy him, he told him in short, they sat there by the supreme authority of the Nation, the Commons assembled in Parliament, by whom his Ancestors ever were, and to whom he was accountable; then the King stood up, by your favour shew me one President. *Bradshaw* stood down in an angry manner, Sir, said he, we sit not here to answer your Questions, plead to your Charge guilty or not guilty: Clerk do your duty; whereupon *Broughton* stood up and asked what he had to say, whether guilty or not guilty: and President *Bradshaw* said that if he would not plead, they must record his contempt. His Majesty turned about to the people and said, then remember that the King of *England* suffers, being not permitted to give his reasons for the liberty of the people: with that a great shout came from the people, crying, *God save the King*: but there was an awe upon them, that they could not express themselves as they would have done I believe.

*Coun.* What did *Cook* say to the Judgement, did you hear him press for Judgement?

*Mr. H.* Yes, I heard these words from the Prisoner at the Bar, That if the King would not plead, his Charge might be taken for Confession: and that the Court might proceed according to Justice.

*Cook.* One question more, whether he often heard me speak



ſpeak thoſe words, that it might be taken *pro Confefſo*, and to proceed according to Juſtice.

Mr. *Hern*. You deſired he might be held to his Plea, confeſſion or denial, that he might not be ſuffered to uſe any words to the Jurisdiction of the Court.

*Cook*. Whether he heard the Charge read.

*Hern*. I did not hear the Charge read, I was not there the firſt day. I heard you confeſs you had exhibited a Charge of high Treason againſt the Priſoner at the Bar, which was then the King's Maſteſtie.

*Cook*. Whether I did not in the Charge conlude, that all proceedings might be according to Juſtice.

*Court*. Read the Title and laſt Article of that Charge, which was accordingly read, and follows in *hac verba*.

*The Title of the Charge.*

*The Charge of the Commons of England againſt Charles Sewart KING of England, of High Treason, and other Crimes exhibited to the High Court of Juſtice.*

*The laſt Clause in the Charge.*

And the ſaid *John Cook* by proteſtation (ſaving on the behalf of the people of *Eng.* the liberty of exhibiting at any time hereafter any other Charge againſt the ſaid *Char. Stew.* and alſo of replying to the answers which the ſaid *Char. Stew.* ſhall make to the premiſſes, or any of them, or any other charge that ſhall be ſo exhibited) doth for the ſaid Treasons and Crimes on the behalf of the ſaid people of *England* impeach the ſaid *Charles Stewart* as a Tyrant, Traytor, Murderer, publick and implacable enemy to the Commonwealth of *England*, and prayeth that the ſaid *Charles Stewart* King of *England* may be put to answer all and every the premiſſes, that ſuch proceedings, examinations, tryals, ſentences and judgement, may be hereupon had as ſhall be agreeable to Juſtice.



*Court.* Mr. Cook, will you have any Witnesses examined touching the question you last asked?

*Cook.* No, be pleased to go on.

*Mr. Baker Sworn.*

*Mr. Bak.* My Lords and Gentlemen of the Jury, I was at the High Court of Justice, as they called it, the first, second and third daies, not to trouble you with the proceedings of of *Bradshaw*, I will tell you what I observed of this Gentleman, I have the notes that I took there, and pray that I may read them to help my memory, which was granted, and then proceeded in this manner, That day my Lord, Mr. Cook told the Court that he charged the Prisoner at the Bar (meaning the KING) with Treason and high misdemeanors, and desired that the Charge might be read: the Charge was this, That he had upheld a Tyrannical Government, &c. and for that cause was adjudged to be a Tyrant, &c. and did then press that the prisoner might give an answer to that: and that very earnestly. The second day, my Lord he told the Court that he did the last day exhibit a Charge of High Treason against the Prisoner at the Bar, (meaning the King) and that he did desire he might make answer to it, and he told them also, that instead of making an answer to the Court, the King had delayed the Court, but desired the K. might make a positive answer, or otherwise that it might be taken *pro confesso*. The third day my Lord he came and told the Court as before, that the King had delayed them, and then he charged him with the Highest Treasons, and Crimes that ever were acted upon the Theatre of England, and then pressed that Judgement might be given against him; and another expression was, that it was not so much He, but the Innocent and precious blood that was shed that did crie for Judgment against the Prisoner at the Bar: this my Lord, in substance; there were other passages.

*Cook.* Whether before this time he had not heard something of an Act or Order proclaimed at *Westminster*, where there was any other word in effect used in that charge more than in the Proclamation?

*Mr. Baker.* I did hear of the Proclamation and Charge where

and the substance of it, I have given an accompt of it, and I did hear you press upon it very much: the Proclamation, I heard of it that it was made for the summoning of the Court, but I did not hear the Proclamation made.

*Cook.* That that was called the Act of the Commons for Trying of the King?

*Mr. Baker.* I did hear of the Act, but did not take notice of it.

*Mr. George Masterfon Sworn.*

*Counc. Mr. Masterfon,* pray inform my Lords and the Jury what you know touching the carriage of the Prisoner at the Bar, at the Tryal of his late Majesty.

*Mr. Masterfon.* My Lords, and you Gentlemen of the Jury, I was present in that they called the High Court of Justice upon the 22, 23. and 27. days of January, in the year 1648. I shall wave those circumstances which you have heard, and many of which I well remember, and what I heard likewise between the King, who was then a Prisoner, and the then President *Bradshaw*; but concerning the Prisoner at the Bar, this I very well remember, that upon Munday I heard him say he had exhibited a Charge of High Treason against the Prisoner (then the King) and demanded how that he might plead to his charge, I do very well remember that after some passages between the King and the Court, the Prisoner at the Bar desired the King might plead to his Charge, or else it might be taken *pro Confesso*: I remember upon the last day, the day of that fatal Sentence, I heard the Prisoner at the Bar demand in the name of the Commons assembled in Parliament, and all the good people of England, Judgement upon the Prisoner at the Bar, pointing to the King; *this is all.*

*Mr. Burden sworn.*

*Council.* Do you know who did examine the witnesses against the King, and were you examined, and by whom?

*Burden.* By Judge *Cook*, for so he was called in Ireland.

*Council.* Did he examine you as a witness against the King, did he give you an Oath?

*Burden.* Yes, my Lord, and many others.

*Cook.* This is a new thing, I never heard of this before, where was it that I examined him? I had no power.

*Council.* No, we know that, but you were active.

*Council.* Where was it?

*Cook.* Whether there were not any others with me in the Room, and where it was?

*Burden.* It was at *Westminster-hall* within the High Court of Justice.

*Cook.* Who was there besides me?

*Burden.* I cannot tell, *Axtel* he was there, and I am sure *Cook* was there.

*Council.* Mr. *Burden*, Pray tell my L. & the Jury what questions you were examined upon, and what they tended to.

*Burden.* He examined me and gave me my Oath, there was eight or nine of us, we had been in the Kings Army in former times, this Gentleman (*Col. Axtel*) brought us in, commanded us out of our Company, I was in his Company, and this Gentleman) himself gave us our Oaths, he asked us where we saw the King in action, I did reply to him, and told him I saw him in the Field with his Army, he asked me many other questions that I could not tell him, he asked me whether I did see the King at *Nottingham* set up his Standard, and I was never at *Nottingham* in my life, these were his questions.

*Mr. Starkey Sworn.*

*Court.* Pray inform my Lords and Gentlemen of the Jury what passed between you and the Prisoner at the Bar, concerning the Trial of his late Majesty.

*Mr. Starkey.* My Lords, this Gentleman now Prisoner, and my self have been acquainted a great while, being of the same Society of *Gravesend*, and truly my Lord, I confess I owe all my knowledge in the Laws to that Gentleman: when I came first he was accused for debt, and was pleased to do me, and several other Gentlemen now and then the favour to reason the Law with us, and assist us in the beginning of the long Parliament, that is, to give you an account of his being indebted, he did desire I would do my endeavour to get his Protection. Near the time of the Kings Trial there was a Gentleman with my self, one *Samuel Palmer* of *Gray's Inn*, which frequented his Company, had several nights

the opportunity of understanding the affairs at *Westmin.* and truly he himself did seem to us to count that a very ridiculous Council. I remember what he said one night, I think they are all mad, which was within two or three days before the Kings tryal, and instanced how a Fellow cryed out to the Lord *Fairfax*, that if he did not consent to the proceedings, he would kill Christ and him. After that I did not think he did go to this Council for imployment, but out of curiosity: when the King came to Tryal, we heard that Mr. Cook was the person that was Solicitor, and Acted that part that you have heard of, and that during that Tryal, whether the second or third day, I cannot say that certainly, Mr. Cook came to *Grays Inne* that evening about Ten or Eleven of the clock at night, only upon some particular occasion as he said, I being walking in the Court in the walk before my Chamber with another Gentleman, I did see him pass out of a house to go back again, I thought it was he, called after him, Mr. Cook said I, upon that he turned back and met me, I took him by the hand, said I, I hear you are up to the ears in this business, no saith he, *I am serving the people*; truly said I, I believe there is a thousand to one will not give you thanks; said I, I hear you charge the King for the levying war against the Parliament, how can you rationally do this, when you have pulled out the Parliament to make way to his Trial? he answered me, *you will see strange things, and you must wait upon God*. I did ask him, but first he said this of himself, said he, *he was as gracious and wise a Prince as any was in the world*, which made me reflect upon him again, and asked how he could press those things as I have heard? what answer he made to that, I cannot tell, I did by the way inquire what he thought concerning the King, whether he must suffer or no, he told me *he must die, and Monarchy must die with him*.

Cook. Whether was this after or before the Sentence?

Mr. Starkey. It was before the Sentence, for it was either the second or third Trial, or rather in some interim of time before the Sentence, for there was an adjournment for a day or two, but I am sure it was before the Sentence.

*Court.* Mr. Cook, they have concluded their Evidence, plead for your self what you think fitting.

*Cook.* My Lord, I have been a Prisoner three months, I humbly desire to acknowledge his Majesties and his Councils favour that I was not put into a *Jeremy's* Prison, but in the *Tower* and not in *Irons*: I give your Lordships humble thanks for that, and truly considering the nature of the Charge, had it been in some other Kingdom, they would have served us as *John Baptist* in prison, I thank you that I have a fair Trial with the *Judges* of the *Law*, who are upon their Oaths to do equal right and justice between our Sovereign Lord the King, and every Prisoner concerning matters of life and death, and likewise those Noble Lords that though they are not put upon their Oaths but upon their honour, if they know any Law to preserve my life, I trust they will rather save than destroy. My Lords, I do therefore say as *Paul* said, my plea is much of that nature, *against the Law, and against Cæsar, I hope I have not offended at all,* and so I have pleaded not guilty. The learned Council have examined several witnesses against me; and I humbly conceive that the matter will rest in a very narrow compass: the substance of the Charge (so far as my memory will serve) doth rest in these three things, the other being but matter of form. That I with others should propound, consult, contrive and imagine the Death of the late King. Secondly, That to the perfecting, and bringing about this wicked and horrid conspiracy, that I with others did assume a Power, and Authority (as I remember) power I am sure, then to kill and murder the King: & thirdly, That there was a person unknown that did cut off the Kings head, and that we were abetting, aiding, assisting, countenancing, and procuring the person: (or words to that effect) against the form of the Statutes, and so forth. I have twelve poor words to offer for my self in this business, wherein if I do not answer every thing that hath been particularly objected, I hope you will give me leave afterwards to offer it. First, I humbly propound this, that if it was not made appear to your Lordships that I did ever propound, consult, advise, contrive, attempt, or any way plot, or counsel the death of His Majestie, then

then I hope, I cannot be found guilty within the Statute of 25. *Edward* the third, for the naked truth, *Mr. Noy* hath in a great part spoke to, I was appointed upon the tenth of *January* 1648. for to give my advice concerning a Charge, there having been upon the ninth a Proclamation for the Trial, and upon the tenth *Mr. Steel*, Dr. *Doriflaus*, and *Mr. Ask* and my self were appointed, and ordered to be of Council to draw up a Charge; Here I have the order attested by *Mr. Jessop*, and pray it may be read.

*Court.* They do admit the thing, that you were so assigned.

*Cook.* Then I humbly conceive that that cannot be said to be done maliciously, or advisedly, or with any wicked intention in me, which I was required and commanded to do; Acting only within my Sphere and Element as a Counsellour & no otherwise. The next thing is this, my L. that by Law words will not amount unto Treason, we usually say, that words may declare an Heretick, but not a Traytor; there were some Statutes formerly 1 *Ed.* 6. where words are made Treason, but they are all repealed by 1 *Maria*, that nothing shall be Treason but what is expressed in 25 *Ed.* 3. this Objection will seem to lye, that these were words put in writing, and that I humbly conceive to be the greatest matter objected, to which I answer, 1. Whether there be any full, certain, clear proof that that is my hand to the Charge, I must leave to you; two or three witnesses say they believe it, & that it is like my hand, that I leave to you, if that appear, yet (My Lord) that that is put in writing as done by another that is the Dictator, and does dictate unto me, I humbly conceive that for any man to write words, which in their own nature may be Treasonable, if he doth but write them by the command of another, by speaking them after another, taking them upon rebound, that is not Treason, because they do not discover a trayterous heart; Those words of compassing the death of the King in the 25 *Ed.* 3. they are secret imaginations in the heart, and they must be manifested by some overtact; that which was dictated (my Lord) unto me, that I had expressly prescribed me, what I should say, what words I should say. That I did not invent any

thing of mine own head, of my own conceit, and therefore cannot properly be said to be malicious. The next thing that I crave leave to offer is this, that the pure and plain demanding and praying of Justice, though injustice be done upon it, cannot possibly be called Treason within the statute, then I hope nothing that has been said against me will amount to Treason: for the words in the natural, grammatical, plain, genuine and legal sence will bear no other construction, as I humbly conceive, but (that whereas those Gentlemen had his Majestie then in their power a Prisoner) that it was prayed by me, that they would do him justice; I do hope, that it will appear that I did give *Bonum & fidele Consilium*. It will appear, I hope, that some would have had a very voluminous and long charge, that I was utterly against it, as conceiving that it was not fit and requisite, that any thing should be put in, at least I durst not invent one word my self but what was expressed in the Act for tryal, if your Lordships will not admit it an act, you will an Order, and so it will bear me forth, at least to excuse me from Treason, because I kept my self to the words, whereas in that it was said that they should proceed according to the merits of the cause, I was against that, that I did not understand that, but according to Justice, & that is but according to Law, because the Law is the rule of Justice. I do humbly hope (my Lord) that if by Law when words may be taken in a double sence, they shall always have the more favourable interpretation, much more when the words in the legal sence will bear it; when it is prayed they will proceed according to justice, I hope it will not be inferred, there was any intention of doing injustice, when justice was required. And therefore (my Lord) the next word that I would offer is this, if my Lord, in all Tragedies which are, as we call them, judicially, or colourably, there are but these four Actors: Accusers, or, Witnesses, The jury, Judges and Executioner. If I be none of these, I cannot be Guilty of Treason. I hope I may safely say according to Law, that I had not a hand at all in his Majesties death. My Lord, the Court and Council, it is very true, they do aim at the same thing, the Council *Requendo Justitiam*, the other *Exequendo Justitiam*, the end being the same.



same, to have Justice. If when justice be demanded, and injustice be done, what is that to the Council? we read 19 of *John* concerning *Pilate*. *Knowest thou not* (speaking to *Christ*) *that I have power to crucifie thee, and have power to release thee?* My Lord, I humbly answer this to that which seems to be the most material part in the Indictment, that We did assume a Power, My Lords, I did not assume a power, I hope it will not be said that the Council had any power, *Eloquentia* in the Council, *Judicium* in the Judges, and *Veritas* in the Witnesses. 25. Acts. *Tertullus*, that eloquent Orator, accused *Paul*, *Paul* answered for himself, and it is said *Festus* being willing to do the *Jews* a courtesie, he left *Paul* bound, it was not the Council that left him bound. His Majesty was never a Prisoner to me, and I never laid any hands upon him; if any witnesses have spoke of any irreverence, I must appeal to God in that I did not in the least manner carry my self undutifully to his Majesty, though one of the Witnesses was pleased to say, that I said these words, *that there is a Charge against the Prisoner at the Bar*; it was not said the *Prisoner at the Bar*, there was not one disrespectful word from me. There is a Case in the third *Institutes* of the Lord *Cook*, it is to this purpose. That one wilfully and knowingly forswore himself, the Case was put to inveigle the Court, and though the Court does injustice upon a false Oath, it is not injustice at all in the Witnesses, it is Perjury in him; if there can be no injustice in a Witness, much less a Counsellor can be said to have his hand in the death of any, because he has no power at all; this must needs follow, that if it shall be conceived to be Treason for a Counsellor to plead against his Majesty, then it will be Felony to plead against any man that is condemned unjustly for Felony. The Counsellor is to make the best of his Clients cause, then to leave it to the Court; it is said, I should demand judgement, I do not remember that, I leave it to you; but still to demand Justice. Counsellors they do engage in business before they do rightly understand the true matter of the fact, it is part of a *Serjeants* Oath, that so soon as he does discover the falsity of the Cause, he should forsake the Cause. My Lord, by what Mr. *Nutly* hath said, it



appears, and I have many Witnesses in the Countrey, three or four in *Leicestershire*, would have spoken full to this, that ( my Lord ) there was not before the Sentence of the King ( to the best of my knowledge ) a word spoken by any, that they did intend to put him to death; I say, to my knowledge, and my Lord, when Judgement is demanded, is it not twofold, of Acquittal and Condemnation? if those that then were entrusted with the power of Judicature, if they did not know any Law to proceed by to take away his Majesty, then I demanding their Judgement, it doth not appear to be my Judgement; and I refer it to the learned Council, that Council many times at the Assises and other Courts have been sorry that the Verdict hath been given for their Clients, when they have known the right lay on the other side; and so I might in this. The next thing I humbly offer, is that if in right reason considering the condition his Majesty was then in, the advising to draw up the Charge, was rather to be looked upon as a matter of service than disservice, then it cannot be called Treason it is very true my Lord, that a very small little Overt act will amount to a Treason, and my Lord, had this been in times of peace, and had His Majesty been no Prisoner, ( now he was under the power of an Army ) this had been great Treason; but he being a Prisoner, not by my means, ( for I was no sword-man ) what can a man that knows himself innocent, being a Prisoner, desire more than a speedy Tryal? so that making the Tryal more speedy cannot be said to be done trayterously. A Tryal doth follow imprisonment as naturally and necessarily as the shadow doth the body. If any man shall desire and be instrumental in bringing him to a Tryal which might acquit rather than condemn him, and so humbly pray proceedings according to Justice, this will have I hope a better name than Treason. I am much beholding to His Majesty and this honourable Parli. for the penning of the Act of *Indemnity*, which I hope my L. you will give me leave to take notice of—

*Court.* Open as much as you will of it.

*Cook.* My Lords, the words that I would make use of, are in the beginning, Treason, Murder and other Felonies that

are

are spoken of, they are said to be counselled, commanded, acted or done; in the preamble which is as the Key to open the mind and meaning of the Law-makers, it is said that all persons shall be pardoned for all, excepting such as shall be named, and in such manner as they shall be excepted, and then it comes, provided that this Act shall not extend to pardon such and such persons, and by name, I am one; and it is said, all which persons for their execrable Treason in Sentencing to death, or signing the Instrument for the horrid murder, or being instrumental in taking away the precious life of our late Sovereign Lord *Charles* the First of glorious memory, are left to be proceeded against as Traytors to his late Majesty, according to the Laws of *England*, and are out of the said Act wholly excepted, and foreprized. There is not any thing offered against me upon the two 1<sup>st</sup>. great words, which are Sentencing and signing, that which I have to do to endeavour to clear my self is this being instrumental in taking away the life of his said Majesty, first I humbly offer this to the Juries consideration. That where the Parliament doth begin to fix the treasonable part, there I hope, and no otherwise this honourable Court will fix it: if it had been the Intention that Counsellors, advisers, and such as spoke their minds sometimes in the business (you know that was Epidemical) many words were spoken which cannot be justified; whether naturally it would not have followed, that all such persons for their counselling, advising or being instrumental, are left to be proceeded against as Traytors, I hope you will take that into consideration: concerning the words, or being instrumental, observe it is not said, or being any otherwaies instrumental, but Sentencing, signing or being instrumental, if therefore the word Instrumental be not of a general comprehensive nature, then all this evidence which hath been given in against me, being before the Sentencing and signing, will fall to the ground; that this is the legal, genuine, and Grammatical sense, & cannot be any other-wise, than as particular, as if it were the Sentencer, signer, & Executioner, which if it had been so, nothing of the Evidence would have reached me. My argument is this, such a use is to

be made of an Act of Parliament, that no word may be frustrate, and insignificant, but if this Interpretation shall be put upon it, sentencing, signing, or being any way instrumental, then the words, Sentencing, and Signing, need not have been, if instrumental will carry the words Sentencing, and signing, then these words will carry no force at all, especially, my Lord, when there is no need of any retrospect at all, if it be so, I know not how far it may look back, there is no necessity of putting any comprehensive generality upon this word instrumental, but that the plain natural sense will be this; That those, that did sentence and Sign, and those that were instrumental in taking away his life, that is, those that did abet, and comfort that person unknown, or justifie, or countenance him, which is after the Sentencing, and not before in the legal sense. Next I conceive that a Councillor cannot be said to do any thing, *vi & armis*.

It is said that by force and Arms I did abet, &c. it is Rhetorical to say that words may be as Swords, but legal it is not, unless there be something *vi & armis*, in the Grammatical sense, instrumental in taking away the Kings life, it is not said instrumental in order to take away the K. life, or instrumental in advising to take away the K. life, but instrumental in taking away the K. life. My Lord, The next thing is, that there cannot be any thing to be said to be done by me, first not *falso*, because in that sense it must have the operation of mendacity, that there must be a lie told in it, I did nothing but what I was required to do, to set down such and such words, I did not invent nor contrive them, I heard nothing of it till the tenth day of Jan. My Lord, for *malitiose*, that I did not any thing maliciously, I hope it will appear in this, what I then spoke, it was for my Fee, it may be called *avaritia* but not *malitia*, for the Law will imply a malice but when there is no other expresse ground or reason why the thing was done, but here was an expresse ground to speak for my Fee, I hope the Jury will take that into consideration. Then Secondly, I was not Judicial in the Case, I was not Magisterial as any Officer, but ministerial. As touching examining of witnesses, it is a great mistake, the Court had power to give an Oath

I might be there; but I had no power to give an Oath, but whether I might ask any question, I do not remember, but that I should give an Oath, that is a falsity; then my Lord, for *proditarie*, I hope there is nothing at all that appears to the Jury: so that there was no malice nor trayterous intention in the thing. There are some matters of Law which I desire your Lordships will give me leave to speak to, and that your Lordships will be of Counsel with me. I would offer something concerning his Majesties gracious Declaration from *Breda* to the Parliament (I was then in *Ireland*) I did put in a Petition to the honourable Commissioners before any exception was, that I might have the benefit of that Declaration, I did lay hold of it. My Lords there are two things in that Declaration that I would offer. His Majesty saith that for the restoring of the Kings Peers and people of the Kingdom to their just rights and liberties, He will grant a free and general Pardon to all, excepting such as shall be by Parliament excepted, and within three or four lines after it is said a free Parliament, though I do not in the least question the Legality of this Parliament, yet my Lords to this particular purpose, whether the Parliament that was to except ought not to be a Parliament that was to be called according to his Majesties Writ, according to the Laws of the Kingdom, I humbly conceive it will bear that, though His Majesty is pleased to confirm this, yet it is not such a Parliament that was to except, that I offer to your Lordships. My Lords, that that I would humbly make bold to put for my self, because it is the priviledge of one in my condition, is this. There is my Lord, many Lords, the Earl of *Essex*, the Earl of *Southampton*, and others that were adjudged in the 44. of *Eliz.* 3. traitors, they did trayterously and maliciously conspire to take her Majesty Prisoner, and to remove her Counsellours from her, which were found guilty and suffered accordingly; the reason is, That because thereby if it had been done, they had despoiled her Maje. of her Regal Government, & the case is instant in *Philip* who was a nominative King, that it was not I reason to have attempted anything against him. My Lords, his Majesty being a Prisoner without any hand of mine,

mine, I giving advice according to what was dictated to me to bring him to that tryal, whereby he might have been acquitted, and so set at liberty: I hope that will not be said as instrumental. My Lords, I humbly shall offer but two words, 1. to the honourable Court, then to the Jury, the words of 25 E. 3. and so the exposition of the learned Judges have been from time to time, that there shall be no semblable Treasons made by presumptions or strains of wit, but those Treasons specified there; It is said if a Husband do kill his Wife, or a Wife kill her Husband, a Master should kill his Servant, or the Servant should kill his Master, that that shall be petty Treason; a Child did kill his Father, though that was looked upon as a great sin, yet the Judges do not presume that to be Treason, because it was not in the very words: this being an extraordinary Case: to write a thing after another, doth not appear there was a malicious heart in him that did write. There hath been the Act of Parlia. that doth call these Courts Tyrannical and Unlawful Courts; but my Lords, a Tyrannical and Unlawful Court is a Court *de facto*, though not *de jure*; if a Court be not a just and lawful Court, it cannot be said but that it is a Court: we say a Thief is a true man, though morally he is not so; this was a Court, Officers attending on them, some said they had Authority, & therefore for one to come and act within his Sphere, nor to act out of that, nor to do any thing, but what he had a pre-script form appointed him, I hope that will not be found to be within the letter of the Law; I have been told (how true, I cannot tell) that there have been some votes in the honourable Parliament, that those that did only counsel or advise, those were not to be looked upon as Traytors; I have been told so, that those that did only speak as Counsel for their Fee, who were not the contrivers of it, the Parliament did not intend they should be left to be proceeded against.

*Court.* That Letter that was sent from the Commons to the King at Breda, they speak first of the violation that was put upon the Parliament, and of the base horrid Murder of his late Majesty. It is said that the Parliament (I conceive they meant of the remaining part) they were not guilty,

but some few ambitious, bloody, guilty persons, who contrived the same, and others misled by them.

*Cook*, The other matter of Law is this, I say that I do hope that though that order, which I was about to produce concerning my acting, that if it may not in a legal sense any way be said to be an Act of the Parliament and Commons, yet it may be said to be such an order to bear out those that did Act according to it, because there was then no other authority *de facto*, otherwise it were not lawful for any man to exercise his profession during such a Power. I hope, Counsellors might then exercise their profession, as well as others: My Lord, though I should suffer my self in this Case, I should be loth the honourable profession of the Law should. I think I was in my Sphere acting as a Counsellor. Now Gentlemen of the Jury, that which I have to say to you, is an evidence concerning matter of life, it must be so clear that every one that hears it may understand it. It is called an evidence because it is evident, it is one reason, why Prisoners for their lives are not allowed Counsel for matter of fact, because the evidence is, and ought to be so clear and plain that every one should be satisfied both Jury and standers by, and it is a proper word to say the Prisoner is convicted, that is as much as his mouth is stopped, and therefore I say, truly as I hope, I may speak it to you without offence, as *Jeremy* in another Case, when some of the people would have had them put him to death, *as for me behold I am in your hand, do with me as seemeth good and meet unto you.* 26. Jer. 14, 15. ver. saith he, *But know ye for certain, that if ye put me to death, ye shall surely bring innocent blood upon your selves.* I hope you will not willingly be Guilty of any such thing, I must leave it to your consciences whether you believe, that I had an hand in the K. Death, when I did write but only that which others did dictate unto me, and when I spoke only for my Fee, and this I would be bold to say, though the argument is not so directly confessed, that humane Justice, (I do first say as this my principle, and opinion is) that as every man ought to pay his moral debts, so all political debts, there is a debt due to human Justice, so political, if the Lord should have suffered

ferred me to have been drunk and kill'd a man for which I ought to have died, in stead of speaking for my self, I would have rather intreated the Jury to have found me Guilty, I think these things ought to be answered political debts; when I was in *Ireland*, and had opportunity of going away, if I thought I had been Guilty I might have done it, my name is put into his Majesties Proclamation. It is true, I was a prisoner three or four months before, so that I could not render my self, to what end should that Proclamation mention my name? it was said I obscured my self, but I did not, humane Justice doth never punish, so much for expiation as for prevention; The judgements of the learned *Aquinas*, *Grotius*, and *Amesius*, and many others, that if a man doth kill a man, commit any thing worthy of death, though he doth repent never so much, yet that others may be deterred from committing such Acts, the Magistrate is bound to put him to death. But where there is not such a thing, there it is different; though it is said the land is defiled, that is where there is danger that the like may be committed again, now all things are settled, there is no danger at all, now there can never come such a case as this again, I say my Lord what I acted I did as a Counsellor, I had no malicious intention in it. Mr. *Nutley* bare testimony so far, that I told him *that was not intention of putting his Majesty to death*, I only did say, that I desired them to do Justice, and I hope what was done, was their Act, not mine, and so I leave my self to your Lordships

*Court.* Silence commanded.

Mr. Sol. G. My Lords, this Gentleman who is the prisoner at the Bar, requires such an evidence of the Fact, as may be evident, he saith so evident, as may be as clear as the Sun, I think that evidence is not to seek, but if he must never be convicted till he be so far convinced as to be speechless, I believe we may stay long enough, nevertheless if he be willing (as he saith he is) to pay his debts to political Justice, we shall quickly give him the total sum. That which he hath said, hath been like a *Lawyer*, the best that his Case will bear, but withal it is a great aggravation to his Crime, that he that knew the *Law* so well, should so much transgress it. He began, *Words do not make true*



For, he mistakes his Charge is not for words, Gentlemen, his Charge is for *compassing and imagining the Death of the King,* and the evidence of that Charge is meeting in that Assembly, and the part that he bore in that Assembly. And yet my Lords he will be much mistaken too: (under favour, and with submission to your Lordships Judgement, and those that hear him,) if they think that in all Cases it is a general rule, that words are no Treason; for when a man shall proceed to declare the imagination of his heart, as to exhort and perswade men to effect that wicked thing, *The killing of the K.*, certainly there cannot be a greater overt act than these words, nor a clearer evidence of such an imagination, *for out of the abundance of the heart the mouth speaks.* My L. to say that the demanding of Justice is not Treason, though injustice do follow, is a very weak gloss upon a wicked action. The Subject matter was a Charge of *High Treason against the King*, the conclusion of the Charge was a *Protestation*, by which he saved to himself a Liberty to put in a new Charge, if that was not sufficient; upon the whole he desires that the King as a *Traitor* may be brought to Justice. Judge you now Gentlemen upon the nature of this demand, whether this were such a demand of Justice as might end in acquital; Whether he that presses that this Charge may be taken *pro Confesso*, did mean that when the Court had recorded it, they should acquit him when they had done. My Lords, to say there are four Actors in this Case, the Witnels, or accuser, the Judge, the Jury, and the Executioner, and that he is none of them, and therefore in this Case he cannot be a Traitor: still my Lord that is to beg the question, for if he be one of them that did Assemble in the place, and were any instrument of that Assembly, he hath thereby given an evidence of an Overt act of his wicked heart, & when all is done this poor gloss amounts but to this, *I am none of those four Ranks, that is, there were others worse than my self, and therefore I am none at all.* My Lord, the thing that he hath mainly insisted upon is the Act of Indemnity, my Lord, he doth observe that his name is excepted in that Act, That he doth hope that it is so pen'd as by the favour of the Parli. he may reach his Case, & he hath argued very much upon it,



and he speaks as if he did believe it himself. But surely there is no colour for that interpretation, that he should step out of this proviso, by the very Act of *Indemnity* that was made on purpose to bring him in by Name, the words are *provided that this Act nor any thing therein contained, shall extend to Pardon or give any benefit to John Cook, &c.* All which persons for their execrable Treasons in Sentencing to Death or signing the Instrument for the horrid Murder, or being instrumental in taking away the precious Life of our late Sovereign Lord King Charles the First of glorious Memory, are left to be proceeded against as Traytors, &c. First, my Lord, this general and clear answer I conceive is to be given, that the Prisoner at the Bar being by Name excepted out of the Act of *Indemnity*, by the *proviso* mentioned in it, although the subsequent lines that follow be the reasons why the Parlim. do except: yet if he be within the very words of the Exception, whether he be in the reasons that moved them to that exception is not material, if he could distinguish that he was not instrumental in that sense to which he labours to restrain this Proviso, he can but say this, the Parliament was mistaken in their reason, but not in their conclusion, but he is directly within the exception and the reason of it too, for the word instrumental goes as far as far can be, and he is properly & literally in the strict notion of the word, an instrument of the death of the King: The King could never have been brought to death, if not to the Bar; never had been sentenced, if he had not been impeached; that impeachment could never have been taken *pro Confesso*, nor the impeachment it self delivered, if he had not delivered the one, and pressed the other: He that brought the Axe from the Tower was not more instrumental than he, and besides a Lawyer as he, of great understanding and of good parts, he knows very well there are no accessaries in Treason, but he that Acts any part in so wicked a Conspiracy let him begin at what end he will, he stands responsible for the utmost consequence of it, and in effect the very penning of this proviso, is an expresse Judgement of Parliament, that he was instrumental, but that is not to be pressed.

The next thing he doth insist upon is, the Declaration of

his Majesty, that he sent from *Breda*, which he saith he laid hold upon; here lies the weight of his answer, The King writes his Letter to the Parliament now sitting, that he doth purpose, for the quieting of the hearts of men that may be in doubt, to pardon all persons, all crimes of what nature soever, either against himself or Royal Father, excepting those which shall be by Act of Parliament excepted, and my Lord, he doth say, and modestly presses, that he doth conceive the meaning of that is to pardon all persons, what crimes soever they have committed; Except such as by a Free Parliament shall be excepted, a legal Parliament called by the Writ of the King, which this Parliament is not. To that I give these answers; First, my Lord, I do say that this letter of our gracious Sovereign from *Breda* in it self undoubtedly is no Pardon in Law for Treason, that cannot be without the Broad Seal. Next, a Pardon under the Great Seal in such a form of words as this is, would not be a Pardon for Treason, for that must not be pardoned by implication, but by positive words; so in the Case of Sir *Walter Raleigh* a Commission directed to our well beloved Subject, would not pardon the Treason, of which he was condemned. In the next place this Letter at the most is but a pardon in honour, which must always be taken according to the meaning; And that the Kings Honour may for ever be sacred, I say this Letter doth no way help the Prisoner at the Bar.

First, it is plain by the very Superscription of this Letter, in which the Declaration was inclosed, that it is directed to the Speaker of Our House of Commons in Parliament assembled, which cannot possibly be expounded of any other Parliament than that, which was then sitting, to whose Speaker it was written.

Secondly, the Letter it self says; we have left it to you to provide for security and Indemnity, and again, if there be a crying sin for which the Nation may be involved in infamy, we cannot doubt, but you will be as solicitous to vindicate as we can be. And then in this very letter encloseth that Declaration, upon the penning of which the prisoner so

much relies; Now lay all together, and it is clear the Parliament, meant by the Declaration, must be the same Parliament, which was meant by the Letter, and that was this very Parliament whom the King intended to trust, both with Indempnity, and with the vindication of his Fathers death, and to be the dispensers both of mercy and Justice in this particular. Another thing is this, This very Parliament as the Prisoner observes, they did go to the King according to His gracious letter, and in the behalf of all the good people of *England*, they did lay hold of the Kings mercy in His letter, and Declaration, and prayed that this claim by their Speaker in the behalf of all the rest of the Commons of *England* might be effectual to all purposes, and for all persons other than those that should be by themselves afterward excepted, according to their requests. His Majesty accepts their Petition, and makes Proclamation, that his Pardon should extend to all, but such as they should except, what can be more clear and evident, than that this is the Parliament which the K. did mean to be the very Parliament, to which the Letter should have reference till the Act of Oblivion was passed again? the late transactions of these twelve years past, had involved so many persons, that we could scarce find a man but he had need of mercy, nay this very Parliament to which the Letter was written, had need of Indempnity, and is it probable in the nature of the thing, or can it be understood by any man, that the King writing to this Parliament, and offering them pardon and Indempnity, should mean such a pardon and Indempnity, as a future Parliament to be called by his own Writ should be willing to afford them? Whose hearts would have been satisfied with so contingent a security?

My Lords, upon the whole matter by what the King hath said in this Letter, and by what the Parliam. hath done in pursuance thereof, and by what the King hath proclaimed, it is to my understanding as clear as the noon day, that the honour of the King is not concerned at all in the exemption of the prisoner at the Bar; and for the Cases of my Lord of *Essex* and *Saushampton* which he hath cited, they make against him, they were condemned, because they endeavoured to

impr

imprison the Queen, and to remove her Councillours, of which very fact the Prisoner is in Law guilty too ; and then the case of King *Philip*, the Husband of Queen *Mary* makes nothing for him neither, unless he will speak out, and tell us plainly, that because by a former violence the King was made a prisoner, he became but like a titular King as King *Philip*.

In the next place he saith, my Case is out of the Law, I acted as a Councillour in my own particular for my Fee, it was *avaritia*, but not *malitia*, nor *falso*, *malitiose*, or *Proditorie*. But he must know, that no man hath or can have a lawful calling, to pursue the life of his King, and the Law implies malice ; for *malitiose* and *proditorie*, are not only words of course, but of truth too in this case, else it were as much as to say, that no Counsel can be guilty of High Treason, than which nothing can be more absurd : My Lord, for that which he said last (for I must omit some things, and give him leave to take the advantage of it) to stand upon it, that the place was a Court, such a one it was, that he was not answerable for the constitution of it, if it were not in a legal sense, it was such an order as might bear him out, that is, with modesty and good manners to justify High Treason ; it is not with such insolency as some others before him did it, but it amounts to that, That an order of a few persons that first made themselves a *Parliament*, and then made a Court of Justice, had Officers and met together, and perfected so great a Treason : I say that this Order to bear him out is impossible. He that is a Lawyer, he must accompt to the Laws for what he hath done, if the authority were not lawful, he cannot but know that this which he calls the *Parliam.* was so far from a legal Authority, that it was one part of the Treason that he did assist such an Assembly.

*Gentlemen of the Jury*, this is your own Case, here is a charge that is exhibited by the prisoner at the Bar, as he saith, in the name of all the people of *England*. Look to it, for you are some of them if you own it, then it may be true what he hath said, but I hope you meet here to tell this Nation and all the world that the people of *England* had no hand in that charge, do but consider how that this prisoner at the Bar had hunted

the life of the *King*, how he did fish out and examine evidence whether the *King* set up his Standard at *Nottingham*, was at such a place and such a place, to what end is all this, but with design of blood? Were these things to be produced against the *King*, and then Judgement to be demanded that he may be sayed? Is it not plainly proved to you by Witnesses, how he did exhibit the Charge, press it, aggravate it, desired it might be taken *pro confesso*, was afflicted with the delays, how angry he was when he was interrupted? Is it not proved to you that he was at first against the thing, and said *it was a base business*? when he was engaged in it said, that he was *a Servant of the people of this Kingdome*? what doth he do at last when the thing had gone far? he speaks that which is the only truth which I have yet heard from him, *He must dye, and Monarchy then must perish with him*; from which Event, good Lord deliver us.

Sir *Edward Turner*. My Lord, the substance of the defence that the Prisoner hath made at the Bar, with much skill and cunning, may be referred to two heads. The first to the Statute of the 25 of *Edward the 3.* The second to the late Act of *Oblivion*: for the first, my Lord, he saith that his fact is not comprized within that Statute, saith he, I did never conspire or imagine the death of the King, nor did believe that would be a consequent of their actings. It was expressly proved that himself did say that the King must die, and Monarchy with him, but Gentlemen though he had said true, that it had not been proved, or that he did not believe that would be a consequent, yet my Lord, I must tell you that every step of this Tragedy was Treason, the summoning themselves that was Treason, every proceeding upon that was Treason, the summoning of their meetings in the Painted Chamber, coming into *Westminster-Hall*, every person as instrumental, those that came to act the least part in that Tragedy were every one guilty of Treason, what saith he, I acted as a Counsellour for my fee. It was that fee that *Judas* had the 30. pieces of silver, that made him hang himself. He goes further and tells you, there must be no semblable Treasons, this

is clear ; the conspiring, and imagining the death of the King, that's the Treason that is mentioned in the Act, Treason by the Common Law, though this be not named the killing of the King, yet all these proceedings are demonstrations to you, there was a Secret Imagination to kill him. Then to the Act of *Oblivion* his Argument is, That because the Act saith, that if they had Sentenced, signed, or been Instrumental in the death of the King, that they should be excepted, but it is not said, or otherwise *Instrumental* : that therefore this should refer to subsequent, not precedent Acts, that's a strange Exposition, take it Grammatically it hath the most large construction, Instrumental, more large than if they had said, or otherwise, for it doth comprehend every thing ; There having been so full an answer already, I will be short, I will not meddle with his civil debts, but with his Political, If a man kill another, though he doth repent, the Magistrate must do Justice *in terrorem*. Though he doth repent, ( I hope in God he doth so, ) The Magistrates, your Lordships, must do Justice *in terrorem*, I desire that Justice may be done upon that man. He said it was no Treason to demand Justice against the King, because he did but demand it, I hope he will think it no unkindness in me to desire judgement against him because it is just.

Mr. *Wadham Windham*. As I understand the Prisoner at the Bar, the chief argument which he shelters himself under, was his profession, which gives a blast to all of us of the long robe, I will not mince his arguments, saith he, here was a Court, I was appointed Solicitor, and saith he, for men to practise before those that have not a proper Judicature, it is not Felony, Murther, or Treason, ( I would not willingly mince his Argument ) and that I was appointed, and the words dictated to me, and a Councillor carrying himself within the compass of his profession is not answerable, but if he will exceed his bounds, his profession is so far from sheltering him, that, as it hath been opened, it is very much an aggravation, it is the duty of a Councillor to give Counsel ; if a man shall come to me and ask counsel, and I shall counsel

him to kill a man, am not I accessory to that murder? Words by his argument will not amount to Treason; if the fact follows, I am as guilty as if I did the fact: in point of Treason it is all one as if I had done that very act. If Mr. Cook did advise that Act, or was instrumental, he is as much a Traytor as the man in the Frock that did the Execution; for his profession, truly my Lord, I do not think that a Counsellor is always bound to know the patent of him that sits as Judge, that will not be his Case; here was no ordinary Warrant of Law to carry on Justice: *Grotius* saith, in case of necessity for carrying on Justice, there may be many things allowed: I pray where did Mr. Cook read of such a Court as a High Court of Justice, there was never such a High Court of Justice read of in the Law; then as this was a mock Court, so under good favour it was a mock Jurisdiction. Was there any Law under Heaven to put the King to death? is it not out of the compass of all Courts whatsoever to do it? and under good favour my Lord, this is but to shelter a mans self under colour of Justice to do the most execrable Treason in the World; I have no more to say to you.

*Lo. Ch. Bar.* I would repeat the Evidence and your answer, to you, if you have any thing new, speak to it.

*Cook.* This is new, it was said by one, that if there had been no charge there had been no sentence given in the Case, I say that the Indictment or Charge is no part of the Tryal by the Statute of *Magna Charta*: The Peers of the Land shall be tryed by Peers, but are indicted by the Countrey; I conceive by what they have said, they do make me causal of the Kings death. It is said in the Indictment there was a power, I say this, I did not assume any power, it cannot be said, if Council be come in to an unlawful power, that he takes the power, but stands with respect at the Bar. At Assises Judgement passes, the Clerk of the Assises, he is not instrumental in taking away life; for that which Mr. Starkey should say, that I should say, *The King must die, and Monarchy with him*, I humbly beg that the Jury would take notice of what Mr. Nor. said, that I told him there was no inten-



tion of taking away the Kingslife, and besides it is but a single witness, I hope there must be two witnesses in point of Law, to convict a man of High Treason.

*Lo. Ch. Baron.* Mr. Cook, you said right but even now, that if there was any thing in matter of Law which the Court knows of, which may be of advantage to you, they are of Council to you, and so they ought to be.

*Cook.* I thank your Lordships.

*L. Ch. Bar.* I shall repeat the whole Evidence, and begin with that first, (we are upon our Oaths) the Witnesses that are against you, I took notice of them, you have had a great deal of Liberty which you have made use of civilly, but Sir, for the fact, I think it is a great deal more full than as you have answered. First, The first witness produced against you was Mr. *Maley* (I shall speak only the material parts, that concern your Charge) He swears expressly, that he saw *Price* a Scribe writing a Charge in the Court of Wards, that he saw his Charge in your hands; He saw afterwards when the King of blessed memory was brought as a Prisoner, that there you delivered the Charge in, there is more than words, you delivered that Charge in, that alone is an overt act; then if there were nothing else in that Case, that a man in a paper should call the King Traytor, Tyrant, Murderer, and implacable enemy, as there the words are, and he delivers this paper, and this be read, if this be not an overt act of imagining and compassing the Kings death, I do not know what an overt act is, and he gives further evidence (if I mistake) take free liberty to interrupt me.

*Cook.* Sir, they were not my words, but their words that commanded me.

*Lo. Chief Baron.* This I say, that this very thing alone, such a paper approved by you, delivering this paper to an Assembly, & requiring it may be read: this is an overt act to prove the imagination of your heart for the Death of the King: the reason is, if the King should be a Tyrant, a Traytor, &c. it stirs up hatred in the people, and the consequences of that hatred is the death of the Prince. The next thing that Mr. *Nalley* said was this, He said that you demanded positively  
Judge



Judgement against him, against the blessed King then Prisoner at the Bar. I remember you said that you did demand Judgement, but that you did not demand Judgement against the King; take it so whether you did, or not, (though you shall find in some other Witnesses that I shall repeat, that you said Judgement against the King ) the consequence will be the same; who could you demand Judgement against but the King, he was the Prisoner; because he did demand a further hearing by the *Parliament*, you urged that his Charge might be taken *pro Confesso*, then it must needs be Judgement against the K. it is effectively and implicately the same. He went further, and that was, that being your friend & acquaintance, & acknowledging your parts as a Lawyer (which truly I do very much know my self, and do know this Gentleman to be a man of very great parts in his profession ) he had familiar acquaintance with you, he told you what a base business it was, and you did your self acknowledge it, said the Prisoner to Mr. *Nutley* himself, it is a base business, but they put it upon me. He did discourse further to him of the Oaths of Allegiance & Supremacy, which he knew very well, no man better, this Gentleman he very ingenuously confessed it, saying, I confess it is so, they put me upon it, I cannot avoid it : but then excuses it, I am the servant of the people : Afterwards he pressed the K. to answer positively whether guilty or not guilty, the pressing of the K. to answer, what was it in effect, but to hasten Judgement ? and that was to hasten his death, so that that is the substance of Mr. *Nutley's* testimony, that he pressed Judgement, Judgement was demanded by the Prisoner now at the Bar, it is not only demanded but pressed, and all the current of the witnesses at several days are to this purpose, it is true (that I may repeat the whole for you, and against you ) that this Gentleman the Prisoner at the Bar, when Mr. *Nutley* did urge this to him, said, he hoped they did not intend to take away the Kings life, I verily believe they do not intend to take away the Kings life, I hope they do not. But Mr. *Cock*, it is no excuse to say you hope, or you believe they will not, &c. How far it may be in such a crime something in extenuation, *in foro Cæli*, but not *in foro Civili* ; you opened it your self.

self, that if a man should go about to take the K. Prisoner,  
 it is Treason; the Law adjudged that to be Treason, when  
 you knew they would condemn him as a Tyrant, Murtherer,  
 &c. you must easily believe what would follow such a con-  
 demnation, Truly death, that is no colour of excuse *in foro*  
*Civili.* Farrington swears to the same purpose, that he saw you,  
 having a Parchment in your hands, delivering it in, & pray-  
 ed it might be read as a Charge of the People, you did not  
 speak, I deliver this in as from those that deliver'd it to me,  
 that was not in the paper, that you said of your self, My  
 brethren will tell you all, this is an apparent point of the  
 imagination of your heart; at that time, he swears the same  
 thing, that you did desire it might be taken *pro Confesso*. Ma-  
 ster Bodurdo is the third, he swears the same thing too, that  
 you exhibited a charge of High Treason against the Prisoner  
 then at the Bar, & tells you the substance of it, he saith that all  
 but the first day you demanded Judgement for not pleading  
 to the Charge, he adds that you complained of the delaies, I  
 am sure that was not dictated to you, that could not be  
 thought that you should desire Judgement for the Prisoner.  
 It is very true which you say for your self in that, that you  
 did not demand it first, till it was demanded by the Court,  
 Master Bodurdo tells you, and so it was granted, the first day  
 that Bradshaw onely said it, but afterwards that you al-  
 waies demanded it; The next was Master Herne, he swears  
 the same words again, that you did in the Name of the Com-  
 mons assembled in Parliament, and the People of England,  
 exhibit a Charge, &c. These are your own words, if you  
 did exhibit a Charge against the King, to exhibit a Charge of  
 High Treason the very thing followed, If it were so, there  
 was death, so certainly there cannot be a greater expression  
 of the imagination of a mans heart, than that is: it is true,  
 you asked then a question and that was, whether that, that  
 you concluded, was not that you desired them to proceed  
 according to Justice, it is true, the words of the Charge are  
 so, but before you come to conclusion you charge him as a  
 Traytor, Tyrant, &c. *Communis Hostis*, after you had given  
 that Charge, you demanded Justice, those that spit in his  
 fac

face they demanded Justice, every one knew what belonged to that Justice. Then *Baker* he swears positively that you did exhibit the Charge in this manner, he said this, that you said, you had exhibited a Charge of High Treason, &c. and that the King sought delays, there is your insisting upon it; he sayes further that you said these words, that you did desire Judgement should be given against him, and not so much you as the blood that had been shed that cryed for Judgement, truly whether that was a Judgement that you intended for acquittal that must be left to the Jury. You asked (because I will repeat it in order as my memory will give me leave) whether there was any other words in the charge, than was in the Proclamation? Mr. *Cook*, Whether there was any other words, or no, that differed in the Proclamation, as it was a great sin and foul fact in the Proclamation, so it was as foul in the Charge. Master *Masterfon* swears the same too, he heard you say the second day you had delivered a charge (the day before) against the King, and that he had delayed his answer, you desired he might plead guilty, or not guilty; the last day, that you did in the names of the Commons Assembled in Parliament, and the people of *England* demand Judgement against the King, and then another swears those words, Judgement against the Prisoner at the Bar, which was the King. *Burden* swears you examined him as a Witness against the King, in what place he was with the King, It seems he was in the King's Army, he swears you gave him an Oath, (it is testimony fit to be believed) but however, if you did not give the Oath, by what you say your self, you may be by, and asked him the question. Master *Starkey*, he tells you that during the Tryal, and before the Sentence, that you, being an old acquaintance of his in *Graves-Inn*, & speaking with him, he spake like a friend to you, *I hear you are up to the ears in this business*, and whereas you talk of the people, there is a thousand for one against it, that you should tell him again, *You will see strange things, but you must wait upon God*, these words of waiting upon God are words of that nature, people do use them nowadaies, when they would do some horrid impiety; which hath been the sin of too many; it is

but

but a canting language, that is the best term I can give it: you told him then *He must die*, this was before the Sentence (that is to be observed, Gentlemen of the Jury) you say you did not know of the Sentence, you said *He must die, and Monarchy with him*; you must here know that some of those persons that sate upon him said, the King was a gracious and wise King, and as Mr. Cook did say, and they were the best words they spoke, and I think he thinks so in his conscience, but in conclusion He must die, and Monarchy must die with him; others said, they did not hate King Charles, but they hated Monarchy and Government, but Monarchy was the thing that they would behead. I think I have done with the Evidence that was given against you, the Indictment it self was read, the Overt acts was the meeting, propounding & consulting about it. It appears he was in the Chamber about the Charge, that he did propound it, he delivered the Charge, & it appears withal, that he demanded Judgement, he desired the King might answer, or that it might be taken *pro confesso*: these are overt acts to declare the imagination of his heart. The answer of Mr. Cook, I will repeat it as clearly as I can, because nothing shall go to the extenuating of the fact, but it shall be spoken. Mr. Cook, in your answer, your defence that you make, you set forth the heads of this Indictment, and you set them forth very truly; the heads are the aggravations of the Indictment, the Indictment was the compassing and imagining the death of the King; you said it was upon these grounds, that you did propound, abet, and consult the death of the King, that you with others did assume power and authority to kill the King, & that thereupon a person unknown in a Frock did accordingly kill the King. You say to the first part, if it did not appear that you did advise the death of the King, that you were not guilty: for that Sir, as I told you before, taking them either complexly or singly, if any of the particulars reached to one of these acts, it was enough, but it reaches to all you required Judgement against the King as a Traytor, and that with a reason, and certainly death must follow, you say you were appointed to give your advice, you had a Proclamation, first, for Trial of the King, you had

had the Order of Jan. 10. whereby you were appointed to give your advice, if it were so, it will be no excuse at all, the Proclama. gives you no warrant at all, he that obeys so wicked a Proclamation, it will not save him; it appears you were privy to this before the Proclamation, if you were not at all, when such a thing as this, is such a Proclamation and Act, and such a manner of Tryal, as I believe though you have read very much, you never heard of such a thing in our Law, or foreign Nations. That you thereupon should take upon you to be of Council against the King, it aggravates the fact: other men may be impudent & ignorant, but you that were a learned Lawyer, your being of Council doth aggravate the thing. You say, Secondly, by Law words will not amount to Treason, for that I would not have that go for Law by no means, though it be not your Case, for you are not indicted for words, but words are Treason, and Indictments are often for it, but the difference is this: The Indictment is not for words, but compassing and Imagining the death of the King, words are evidences of the compassing & imagining the Kings death. It is the greatest evidence of the imagination of the heart. Words do not make a Treason, that is, if it be by inference, or consequence, but reductively, but if it be immediately, I shall say to a man, go kill the King by that which is an absolute, immediate necessary consequence, to say this is no Treason, I would not have that go for Law, your Case is not for words, but for delivering a Charge, the ground that you speak of, words may make a Heretick but not a Traytor, it was a witty saying, but you have no sufficient authority for it, these are words put in writing: we all know if a man put his words in writing, if a man speak Treasonable words, and put them in writing, they have been several times adjudged Treason, and so in (my Lord) Cook's 3. *Institutes* the Case of *Williams* of the *Temple*, there was a Book of Treason in his own Study of his making, and he was indicted for it, words put in writing is an expresse evidence of the imagination of the heart, you say it was dictated to you, but when words are written in a Charge and your name to it, ( which I had almost forgotten ) that's more

more than words: the Witnesses swear the likeness of your hand, they do but swear the likeness of your hand, no man can swear more unless he was present and see it, but you owned the Charge, and there your name is, that besides the two Witnesses there is your own actions to prove it. When two Witnesses shall swear it is like your hand, and you own that Charge, I must leave it to the Jury: you say you did this after command, the words were dictated to you, the words were *conceptis verbis*, appointed, and ordered by the Court, but the pressing was yours, he stands upon delays let it be taken *pro confesso*, demanding Judgement, these were your words, another man may dictate a thing but you are not forced to speak it, you urged it, owned it, you demanded not in the name of the Court, but in the name of all the People of *England*, you say further that your demanding Justice is not within the Statute, as I said before, what can be the effect of demanding Justice, but that the King should die upon those premises; you say further that it was in behoof of the King, as you would urge it, to do the King a Courtesie in asking the King might have Justice, but you did not name what Justice it was, but you did him a Courtesie, truly the King was but a little beholden to you for that request, all the world knows what that demanding of Justice was, it was to have the Kings head cut off, you went as far as you could, it ended with you when you demanded Justice, that is as far as you could, you cut off the head. *S. Paul* when the Witnesses laid down the clothes at his feet, he said, I killed *Stephen* the Martyr. You say further that in all Tragedies the Accuser, or Witness, the Jury, the Judge, and executioner are the only persons, and you are none of these, you are only of Council, if Justice was not done, what was it to you? you said you did not assume a power, there was only Eloquence required in the Council, it hath been truly said that this is a great aggravation to be of Council against the King, you said his Majesty was then a Prisoner and accused; Counsel cannot be heard against the King, you undertake to be Counsel against the King in his own person and in the highest Crime; if the Council at the Barr in behalf of his  
 Cli-

Client should speak Treason, he went beyond his sphere, but you did not only speak, but acted Treason, you said you used not a disrespectful word to the King, truly for that you hear what the witnesses have said, you pressed upon him, you called it a delay, you termed him not the King, but the Prisoner at the Bar at every word; you say you did not assume an authority, it is an assumption of authority, if you countenance and allow of their authority; you say you do not remember you demanded Judgement against the King, that is fully proved against you, you your self asked the question, whether you did say against the King, he did not remember, but others positively, that you demanded Judgement against the King and Prisoner at the Bar, you said that before Sentence there was not an intention to put the King to death, to that Mr. *Starkey* swears that you expressly said, the King must die, and Monarchy with him, and this before the sentence: whereas you say this is but one witness, that there is to be in Treason two witnesses, but that there should be two witnesses to every particular that is an Evidence of the fact, that is not Law, if to one particular that is an Evidence, there be one witness, another to another, here are two witnesses within the meaning of the Statute, two witnesses to the Indictment compassing and imagining the Death of the King, being accompanied with other circumstances, this one witness if you believe him, is as good as twenty witnesses, because other overt acts are expressly proved by several witnesses: You say next, for the drawing of the Charge, in right reason, it ought to be counted for the service of the King: First you do acknowledge, and truly very ingenuously, that in the time of peace to bring him to the Bar, not being a prisoner, is Treason (you say it) according to the Law, and that you delivered the charge for the accelerating of the Charge, and that it was not done by you traitorously, you say the King was a Prisoner before, and you say what hands he was in, in the hands of men of power and violence, it had been your duty to have delayed it, not accelerated it, that there might have been some means of prevention of that bloody act that followed, if you

knew



knew that to be Treason to make him a prisoner, Subjects do not use to make Kings Prisoners, but Death follows. You urge in the next place the Act of Indemnity, and that you are not excepted, for that, you have made as much of it as the matter will bear, yet you must consider, First, as a rule in Law, that where they are general words, when they come to be explained by the particulars, you shall not include them within the general: Mark the very words, they are these, *Provided that this Act, nor any thing therein contained shall extend to pardon, discharge, or give any other benefits whatsoever unto such, and such, (among whom you are named) nor any of them, nor to those two persons, or either of them who being disguised by Frocks, and Vizards, did appear upon the Scaffold erected before White-Hall, upon the thirtieth of January 1648. All which persons, these are the words. First, It shall not extend to you; then it comes, All which persons for their execrable Treason in sentencing to death, or signing the Instrument for the horrid murder, or being Instrumental in taking away the Precious Life of our late Sovereign Lord CHARLES the First of glorious Memory, are left to be proceeded against as Traytors to His late Majesty according to the Laws of England, and are out of this present Act wholly excepted, and foreprized.* First, as I told you before, and as it was very well said by Master Solicitor, admitting the reason had been mistaken, and that you had not been comprehended in the reason, you are excepted out of the body, provided it shall not extend, &c. Many times Laws do make recitals, which in themselves are sometimes false in point of fact, that which is the Law is positive words, the other words are for the reason; Excepting all which, that is, Master Cook, which persons are excepted not for doing of it, but for his execrable crimes in being instrumental. It is clear without that, if it were not so, we say when a Sentence is, or such a one, or such a one; the third Or makes all disjunctive: Here are three Or's first in sentencing to death, or signing the Instrument, then comes this, or being instrumental in taking away the precious life of our late Sovereign, &c. this Or doth clearly exclude the other two, or instrumental not only in point of death, but further, being neither a Sentencer, Signer, or



being instrumental in taking away the Kings life ; that is, being any way instrumental. Truly, whether it be not instrumental to exhibit a Charge against him, or complain of his delays, to ask Justice against him in the name of the people ; to do all this, and desire that the Charge might be taken *pro Confesso*, if this be not instrumental, I know nothing else Sentencing and signing : Some signed the Sentence, some the instrument for death : the next degree of being Instrumental, the highest degree of that, is to accuse him, to deliver in the Charge against him, in the name of the people, do it again and again, be angry at the delays. The next thing is this, that you did not do this *falso* or *malitiose*, but for your Fee, and that though there might be *avaritia*, there was not *malitia* in it, it was done by your Profession, you were not Magisterial in it ; you thought the consequences that did follow, would not follow. If a man does but intend to beat a man, and he dye upon it, you know in Law it is all one : You must understand, there is a malice in the Law ; If a man beat one in the Streets, and kill him, though not maliciously in him, but it is so in Law. That you desire to have the benefit of the Kings Declaration ; that you did put in your petition proving the same, that you were a prisoner before, that the Commons in behalf of themselves and the people of *England*, they craved the benefit of it, which was granted, excepting such as should be by Parliament excepted, and that the King should mention a Free Parliament : for this, it hath been fully answered to you, and clearly by Mr. *Sollicitor*, that you are not at all concerned in the Kings Declaration at *Breda*. For first, it is nothing in Law, it binds in honour, and we have given the same directions yesterday upon the like occasion, that is, that the Kings Declaration binds him in honour and in Conscience, but it does not bind him in point of Law, unless there were a pardon granted by the Broad Seal, the thing is cleared to you what Parliament the King meant by it, they were sitting at that time, had acknowledged their dutie and allegiance to their King, they went *ad ultimum potentie* for a free and absolute

absolute Parliament, whilst the King was absent, though the King was away ; yet notwithstanding the King Declared whom he meant, he directed one of those Declarations to our Speaker of the house of Commons , and another to the Speaker of our Peers, in this case it was *loquendum ut vulgus*, it was owned by him as having the name of a Parliament, it was done with great wisdom and prudence, and so as it could be no otherwise , they that were loyal subjects, acting in the Kings absence, he consenting to it, the King owning that Authority, so he was obliged in honour no further than his own meaning and words, but there is another Clause in the act excludes all these persons. The next thing is this, you say the Statute of 25 *Edward* 3. and it is very true, you say if it be any semblable Treason, we were not to judge upon that, unless they were the Treasons in the Act, and it is most true, now you would urge but this, that this is but a semblable Treason, but you are indicted for the compassing and imagining the Death of the King : if these Acts did not tend to the compassing and imagining the Kings death , I know not what does, I am satisfied you are convicted in your conscience. The next thing (for you have said as much as any man can in such a Cause, it is pity you have not a better) you say, though it was a Tyrannical Court as it is called ,but such a Court it was, and there were Officers you say, it had *figuram judicii*, that aggravates the fact to you, to your profession. There is a difference between a standing Court, and that which is but named to be a Court, this was but one of a day or two's growth before, and you know by whom, by some that pretended to be only the Commons, your knowledge can tell you that there was never an Act made by the Commons assembled in Parliament alone, and you may find it in my Lord Cook , that an Act by the Lords and Commons alone was naught, as appeared by the Records, Sir *James Ormond* was attainted of Treason, the Act was a private Act by the King and Commons alone, the Lords were forgot, when the Judges came to try it, it was void, and another in *Henry* the 6. time ; you know this was no Court

at all, you know by a printed Authority, that where a settled Court, a true Court, if that Court meddle with that which is not in their cognizance, it is purely void, the Minister that obeys them is punishable, if it be Treasonable matter, it is Treason: if murder it is murder: so in the Case of Martialssea, and in the Common Pleas, if a man shall begin an Appeal of death which is of a criminal nature, and ought to be in the Kings Bench, if they proceed in it, it is void; if this Court should condemn the party convicted, & he be executed, it is murder in the Executioner, the Court had no power over such things; you speak of a Court. First it was not a Court: Secondly, no Court whatsoever could have any power over a King in a coercive way, as to his person. The last thing that you have said for your self is this, that admitting there was nothing to be construed of an Act or an Order, yet there was a difference, it was an Act *de facto*, that you urged rightly upon the Statute of 11 Hen. 7. which was denied to some, God forbid it should be denied you; if a man serve the King in the War, he shall not be punished, let the fact be what it will. King Henry the 7. took care for him that was King *de facto*, that his Subjects might be encouraged to follow him, to preserve them, whatever the event of the King was: Mr. Cook you say, to have the equity of that Act, that here was an authority *de facto*, these persons had gotten the supreme power, and therefore what you did under them you do desire the equity of that Act; for that clearly the intent and meaning of that Act is against you, it was to preserve the King *de facto*, how much more to preserve the King *de jure*, he was owned by these men, and you, as King, you charged him as King, and he was sentenced as King. That that King Henry the 7. did, was to take care of the King *de facto* against the King *de jure*, it was for a King and Kingly Government, it was not for an Antimonarchical Government, you proceeded against your own King and as your King, called him in your charge Charles Stewart King of England. I think there is no colour you should have any benefit of the Letter, or of the equity of the Act. They had not all the Authority at that time, they

they were a few of the people that did it, they had some part of the Army with them, the Lords were not dissolved then when they had adjourned some time, they did sit afterwards, so that all the particulars you alledge, are against you. The last thing was this, you say, that it having pleased God to restore the King, Judgement should be given for example for terrour to others, that this could not be drawn into example again, why? because by the blessing of God peace was restored, no probability that if your life was spared, that it would be drawn again into example, this is the weakest thing you have urged, you must know the reason: there are two things, there is the punishment and example, punishment goes to the prisoner, but example to the documents of all others; God knows what such things may be in after ages, if there should be impunity for them, it would rather make men impudent and confident afterwards: if you have any more to say I will hear you, if not I must conclude to the Jury: You hear the evidence is clear for compassing and imagining the Death of the King, you have heard what he has said, and what he hath done, he has within, and examined Witnesses against the King, that he was by at the drawing of the charge, where it was drawn, you hear he exhibited this charge in the name of the Commons assembled in Parliament, and the good people of *England*, and what this charge is, it is high Treason and other high misdemeanors, you find that he does complain of delays, does again and again speak of this Charge, desire it may be taken *pro confesso* in the close of all, it was not so much he, as innocent blood, that demanded Justice, this was more than was dictated to him. You have heard the Witnesses, he was perswaded to forbear, acknowledged the King to be a gracious and wise King, The Oaths alledged against him, and you have heard his excuse, I have nothing to say more, I shall be very willing to hear you further: I have not absolutely directed the Jury.

*Cook.* I do humbly acknowledge your patience in hearing me, and that your Lordships have truly and justly stated both proofs and my answer. If your Lordships are pleased to lay aside these Acts, or Orders, or Authority whereby

I did at that time truly, conscientiously act, and did think that it would bear me out, if you lay aside that, and look upon it as so many men got together without authority and aswell those that were instrumental, though not sentencers or signers, and that clause in the Act, I confess I humbly make bold to say, I have not received satisfaction in my judgment, those very words of *not so much I, as the innocent blood cries for justice* were dictated to me, there was nothing at all left to me, because his Majesty did not plead, there was no Tryal, that which I did was according to the best, though it may be according to the weakest part of my judgment, I have no new matter.

*L. Ch. Bar.* You have said no new matter unless it be worse than before, for now you warrant that Authority.

*Cook.* Do not mistake me (my Lord) I mean so far as to excuse me in the point of High Treason.

*L. C. B.* We delivered our opinions, as to that formerly we were of opinion, that the acting by colour of that pretended authority was so far from any extenuation, that it was an aggravation of the thing, the meeting by that authority was Treason, and in them that acted under them and approving of it, the making of that trayterous pretended Act, making the Proclamation, sitting upon it, they were all so many Treasons: That was the reason why that was urged against you, assuming upon you the power, that was, you approving of their power by acting under them, so that there is nothing more to be said.

Gentlemen of the Jury, you have heard the indictment was for compassing and imagining the death of the King, you have heard the several Overt acts repeated, and whether these are guilty of Treason to deliver in a charge against the K. such a one as that was in these words, as against a Traytor, Tyrant, Murderer, and implacable enemy to the Commonwealth, in these very words, to desire Judgement against the Prisoner (then the King) at the Bar, angry at delays, to desire that the Charge might be taken *pro confesso*, to have it expressly, again & again to demand Judgement: if these be not Overt acts of compassing and imagining the

the Death of the King, & that which hath been said by the Witnesses, it must be left to you, I think you need not go from the Bar. *Jury went together. Silence is commanded.*

*Clerk.* Are you agreed of your Verdict?

*Jury.* Yes.

*Clerk.* Who shall speak for you?

*Jury.* The Fore-man.

*Clerk.* *John Cook*, hold up thy hand, look upon the Prisoner at the Bar, how say you, is he guilty of the Treason in manner & form as he stands indicted, or not guilty?

*Fore-man.* Guilty.

*Clerk.* Look to him Keeper,

*Clerk.* What Goods and Chattells?

*Jury.* None that we know of.

The Tryal of *Hugh Peters* the same 13. of October, and at the same Bar.

*Clerk of the Crown.* **S**E T *Hugh Peters* to the Bar: he was brought accordingly.

*H. P.* Hold up thy hand, thou standest indicted, &c. If you will challenge any of the Jury, you must challenge them when they come to the book, before they are sworn.

*L. Cb. Bar.* *Mr. Peters*, You may challenge to the number of 35 peremptorily, but beyond that you cannot without good cause shewn, and you may have Pen, Ink, and Paper.

*Peters.* My Lord, I shall challenge none.

*Jury sworn*, 12. *Sir Jer. Whitch. James Hally, Christo. Abdy, Nich. Rainton, Rich. Cheyney, Jo. Smith, Rich. Abell, George Terry, Charl. Pickern, Jo. Nichol. Fran. Dor. rington, Anthony Hall.*

*Cler.* *Hugh Peters* hold up thy hand. Look on the Prisoner you that are sworn, &c.

*Sir. Ed. Turner* to the Jury. You have often heard repeated to you, that the substantial part of the charge is the compassing and imagining the death of the King, and all the rest will be but evidence to prove that imagination against the Prisoner at the Bar, whom we will prove to be a principal actor in this sad Tragedy, and next to him whom God hath taken away, and reserved to his own Judgment; and we

shall endeavour to prove, That he was a chief Conspirator with *Cromwell* at several times, and in several places, and that it was designed by them. We shall prove that he was the principal person to procure the Souldiery to cry out Justice, Justice, or assist or desire those for the taking away the life of the King. He did make use of his profession, wherein he should have been the Minister of peace, to make himself a Trumpeter of war, of Treason and Sedition in the Kingdom. He preached many Sermons to the Souldiery in direct terms for taking away the King, comparing the K. to *Barabbas*; He was instrumental when the Proclamation for the High Court of Justice (as they called it) was proclaimed, directing where it should be proclaimed, and in what place. When the King was brought upon the stage, that mock-work, he was the person that stirred up the Souldiery below to cry for Justice; we shall shew you as he preached at several times upon several occasions, still he was in the Pulpit to promote this business, the next day after he was brought to tryal he commends it; you shall hear all out of the mouth of the Prisoner, therefore I say no more, call the witnesses.

*Dr. William Young* sworn.

*Council.* Tell my Lords and Jury what the Prisoner at the Bar has declared to you concerning the contrivance of bringing the King to Tryal.

*Dr. Young.* My L. and Gentlemen of the Jury, It was near about (and that the Prisoner may remember) the month of July 1648. since we came first acquainted, when he went over to *Ireland*, it was about the Siege of *Pembroke Castle*, but afterwards in the year 1649. we renewed our acquaintance, he went over into *Ireland* with that Usurper the late Protector, as he was called, after the Town of *Wexford* was taken; coming over he fell sick of the flux, and said he received it by infection, praying over Captain *Horton*. Coming into *Milford*, that Captain sends a summons to me, to come on board, that was to fetch this prisoner at the Bar, who was sick. I found him there groveling upon the deck, and sick he was indeed, with much difficulty we got him on shore, within a very few dayes,

(to



( to the best of my remembrance five days ) I perfected his cure. We became very familiar, I observed in him that he had some secret thoughts that I could not well discover, neither well understand, whereupon I thought it might tend to my security that I should so much sympathize with him, to get within him to know his intentions. After some weeks, ( for he continued with me ten weeks, or near thereabouts, some few days, rather over than under ) we grew so familiar, that at last I found he began to enlarge his heart to me. Many times I should hear him rail most insufferably against the Blood Royal, not only against our Martyred King, but against his Royal off-spring, still as we continued our acquaintance, he became more and more open to me, so we would sit up discoursing (till about twelve or one of the clock at night, very often) about these unhappy wars late in *England*. At last, my Lord, I found him, that he began to tell me how he came into *England*, and upon what account he came out of *New England*. I shall desire that in regard his discourses were various, that I may deliver them orderly, they were delivered to me within the compass of ten weeks, but the days and weeks I cannot remember. First he told me (discoursing of *New England* and the Clergy there, and much of the Clergy here in *England*, and of the business here of reformation,) he told me that for the driving on of this interest of this Reformation, he was imployed out of *New England* for the stirring up of this war and driving of it on, this I shall my Lord speak to in the first place, and that upon the oath I have taken: and secondly, he was pleased at another time to acquaint me, and that by way of complement, complaining then against the Parliament, saying, that sometime after he was come into *Engl.* he was sent over into *Ireland* by the Parliament to receive further instructions to drive on the design, to extirpate Monarchy; saith he, I did dispend a great deal of my own money, yet never had that satisfaction from them which they promised me, that was they promised me 2 or 3000 *l.* for my journey, and yet they have given me no more but only a small pittance of land out of my Lord of *Worcesters* estate in *Worcester-shire*. I have seen his letters directed

rected to his kinsman here in *London*, as I take it, his name was *Parker*, advising him for the settling of this land and selling it. Thirdly, my Lord, I have observed, that by way of vilification of the Monarchical Government, I have found him jocundarily scoffing at it, and would ordinarily quibble in this manner, saying, this Common-wealth will never be at peace till 150. be put down. I asked him what this 150. was, he told me three L's, and afterwards interpreted the meaning to be the Lords, the Levites and the Lawyers, with that said I, we shall be like *Switzers*, *Tinkers* and *Traytors*. Now my Lord, we are come to the last particular, we discourfing thus frequently, and withal he was then a Colonel, and had a Commission under that Usurper *Oliver*, and brought over his Commission for raising of Souldiers to foment that War in *Ireland*; that it was so I appeal to the dictates of his own Conscience, and whether he did not press me very importunately to accept of a Commission of Major or a Captain; he did issue forth two Commissions under his own hand, one of them to bring over from *Devon-shire* two foot Companies unto *Cork*. My Lord, because we were militarily affected, amongst the discourfes of our unhappy wars, I know not how it came from him, it being near eleven years since, and I have had many sufferings incumbent on me, so that I may fail in some particulars, but in general thus it was: we were discourfing concerning our Martyr'd King, as then we call'd him, and of his Imprisonment in *Holmeby* House, which I wondered at, thus we discourf, he told me the story how they had used him at *Holmeby*, and at last came up to this, when he was taken away from *Holmeby* House, the Parliament had then a design to have secured *O. Cromwel*, and my self being then in *London*, saith he, we having intelligence of it, escaped out of *London*, and rode hard for it, and as we rode to *Ware* we made a halt, and advised how we should settle this Kingdome in peace, and dispose of the King, the result was this; They should bring him to justice, Try him for his life, and cut off his Head: whether this was the expression of *Cromwel* I cannot tell; but to the utmost of my remembrance, and I am mistaken if it was not the advice of Mr. *Peters* to *Cromwel*, and I

believe it, because his former relations of his instructions out of Ireland did tend to that effect.

Mr. Soll. Gen. I will ask you this question, we will not press you particularly upon your memory, whether *Cromwel* or *Peters* said the words, do you remember he confessed to you, they were agreed upon that matter?

Young. They did consult and agree upon it.

Peters. *My Lord, I desire to speak a Word, ( his voice being so low he was brought to the second Bar. ) I am the bolder to speak to your Lordships at this time a word, and it is high time to satisfy my conscience, if these things were true, there is enough said to destroy me, I desire leave to tell you what offence I take at the witness, thus my Lord. This Gentleman I do know——*

Coun. What say you to him?

Peters. *That which I have to say is this, that in his story he hath told that which is not true, but I will not find fault with him, because he was my host, I will not reflect and recriminate, I shall give your Lordships in simplicity as much satisfaction my self as any witness, this I say to the man that speaks, and this is certain, I did indeed spend some time at this Gentlemans house, he is called there Dr. Young, and my trouble at this discourse is this, I do not know my Lord that I found a more violent man for the Parliament than himself; so far, he undertook to be a spy on one side, this I find to be so, he will not deny it, he was very fierce in that way, I think words of such a man ought to be little attended to. The second is this, this Gentleman is not a competent witness, and that upon a two-fold ground. First, because I know he is under a very great temptation and trouble in this very thing, and it is upon this account, he was put out of his living in the Countrey, and here he came to me to help him in again, and was very highly offended because I did not do it. Secondly, it is not that I would invalidate his witness, but give me leave to tell you, it is his way to snap and catch at every man, which is the complaint of the people in his own countrey. I know that same which is spoken is false, I speak it in the presence of God, I profess I never had any near converse with O. C. about such things, I speak this to the Jury, that they would have a care of the witness, I was in sickness then, those that have known me, do know likewise I have much weakness in my head when*

I am

*I am sick, and to take words that are spoken in a sick condition he ought not to do it, for the words themselves I do here profess against them, for the generality of them, and that he hath been freer in my judgement in any communication this way than I have been; it is marvellous, here I profess the things untruths, I call God and Angels to witness they are not true. I will give you an account of my whole condition by and by, if I may be heard.*

*Court.* You shall be heard at large, that which you have been heard now, is concerning the competency or incompetency of the witness: the incompetency against him is this, that when you came thither none more violent for the Parliament than himself, and that he was a great spie, and you say it is usual with him to take such courses; these are but words, if you have any witnesses we will hear them, the man may be traduced and slandered, and so all witnesses may be taken away.

*Court.* Mr. *Peters* if you take this course God knows when this business will end, if you have a mind take pen, ink and paper, and take notes of the witnesses, and make exceptions to them one after another. But interrupting one and so another, we shall never have done.

*Young.* I do recollect my self of some other conferences between us, as to my being malicious, I know he never did me any wrong, and therefore I cannot be malicious, and as for my reputation, having resided two years in *London*, I can have certificates both from my Countrey, and some of this City to vindicate me in that particular. But my Lord, that which I would inform your Lordship is this, he told me he took Duke *Hamilton* a prisoner himself in his own Chamber, seized on his goods, and took his George and Blue ribband off his shoulder, and this George he shewed me.

*Wybert Gunter* sworn.

*Coun.* Mr. *Gunter* what can you say concerning a meeting and consultation at the Star in *Colemanstreet*?

*Gunter.* My Lord, I was a Servant at the Star in *Colemanstreet* with one Mr. *Hildesley*, that house was a house where *Oliver Cromwel* and several of that party did use to meet in consultation: They had several meetings, I do remember

very well one among the rest, in particular, that Mr. *Peters* was there, he came in, in the afternoon about four a clock, and was there till ten or eleven at night, I being but a Drawer could not hear much of the discourse, but the subject was tending towards the King after he was a prisoner, for they called him by the name of *Charles Stuart*: I heard not much of the discourse, they were writing, but what I know not: but I guessed it to be something drawn up against the King, I perceived that Mr. *Peters* was privy to it, and pleasant in the company.

*Court.* How old were you at that time?

*Gunter.* I am now thirty years the last *Bartholomew* day, and this was in 1648.

*Court.* How long before the King was put to death?

*Gunter.* A good while; it was suddenly, as I remember, three days before *Oliver Cromwel* went out of town.

*Peters.* *I was never there but once with Mr. Nathanael Fines.*

*Conn.* Was *Cromwel* there?

*Gunter.* Yes.

*Conn.* Was Mr. *Peters* there any oftner than once?

*Gunter.* I know not, but once I am certain of it, this is the Gentleman, for then he wore a great Sword.

*Peters.* *I never wore a great Sword in my life.*

*Mr. Starkey* sworn.

*Starkey.* My Lords, in the month of *December* before the King died, in the beginning of that month, and so towards the 12. of *January* following, the head-quarters of the Army were at *Windfor*, and Mr. *Ireton* that is dead (who was a general Officer of the Army) was quartered in my fathers house there; and by reason of his long residence there, being about two months (his wife was there too) My Lords, this Gentleman Mr. *Peters* he likewise quartered in another place in that town, and *Cromwel* himself was quartered at one Mr. *Bakers* that lay low in the town, so that in truth, my fathers house being near the Castle, and there being in it a large room, and in respect that Mr. *Ireton* was quarter'd there, usually the Council of War sate there: My Lords, I was then in the house constantly, besides this Council of War which

which did commonly sit there, I did observe that *Cromwell, Ireton*, and this Gentleman *Mr. Peters*, and one *Col. Rich*, and a fifth person whose name I have forgot, did usually meet and consult together, and would sit up till two or three of clock in the morning very privately together, this was their usual course when their Council of War sate, *Mr. Ireton* came in to supper, but went out again. There were guards upon them. After this time it happened so, that I was often in *Mr. Ireton's* company, where *Mr. Peters* coming to him was very often at meals there, but especially at nights, by occasion of that.

*Mr. Ireton* being civil in carriage, would usually entertain discourses with *Mr. Peters*, likewise would favour me sometimes with discourse; and in that discourse, I did many times take occasion to assert the laws in point of the King: And discoursing about the King as being a capital instrument in the late Inconveniences, as they call'd it, in the times of the war, *Mr. Ireton* would discourse this ordinarily: I was bold to tell them, that the person of the K. was *solum legibus*, this Gentleman, the Prisoner at the Bar, told me, It was an unequal law. I did observe *Mr. Peters*, that he did bend his discourse not by way of argument only, but in point of resolution of judgement fully against the Person and Government of the King. I remember some of his expressions were these, That he was a *Tyrant*, that he was a *Fool*, that he was *not fit to be a K.* or bear that office; I have heard him say, that for the Office it self (in those very words which shortly after came into Print) that it was a *dangerous, chargeable and useless* Office. My Lords, the constant discourse of this Gentleman at that time was such as he did believe would never be called into question, so that it was not a thing that a man was necessitated to observe by an accident, but it was their full and whole discourse. I will put you in mind of a particular passage, When the news came to *Windsor*, that the King was in Prison at the Isle of *Wight*, my father whose house that was, was very much troubled at it; and being an ancient man, was not able to controll his passions with reason, told my mother, that they (meaning *Mr. Ireton*, &c.) should have no entertainment there, and took the key of the Celler and

and put it in his pocket; his passions being lessened, Mr. Ireton, his wife and another Officer being at supper, and afterwards my father said Grace, and as he usually did, though they were there, he said that usual and honest expression, praying for the King in these usual words, God save the King, Prince, and Realm; sometimes they did laugh at it, but never did reflect upon him, but this night he made this expression, God save the Kings most excellent Majesty and preserve him out of the hands of all his enemies: *Peters* who was then at the Table, turns about to him and said, Old Gentleman, your *Idol* will not stand long: I do conceive he meant it of the King. For a matter of two months of the constant residence and being of the Army there, I did observe that in the general Council there, and in this private Cabal (after the business was broke out, and when the King was taken prisoner and carried to *Windsor*) Mr. *Peters* was the constant man: and when the business broke out, I looked upon it in reason that *Cromwel*, *Ireton*, and this Gentleman at the Bar, and *Rich*, and that other Gentleman whose name I have forgot, that they were the persons that did the business. My Lords, Mr. *Peters* he continued at *Windsor*, I remember very well, that after the body of the Army, the General and the Officers of the Army were gone to *London*, he continued in *Windsor*: I remember a passage of one *Bacon* who was a Sectary, Mr. *Peters* being in discourse of the King, Mr. *Bacon* took great distaste at Mr. *Peters* for some affront put on the K. Mr. *Peters* falls upon him and rails at him, and was ready to beat him: we understood it so, because he did tell him of his affronting the King.

Coun. Mr. *Peters*, if you have any thing to ask this Witness, you may.

*Peters*. I have many things to ask him. Did I ever lye there?

*Starky*. No.

*Pet*. Did you see me there at three of the clock in the morning?

*Starky*. I have seen you go up at ten a clock at night to Mr. *Ireton*'s chamber, and sometimes I understood you did not go away till four a clock in the morning; I went to bed, it's true, but I understood it so.

Thomas



*Thomas Walkeley* sworn.

*Coun.* Give your testimony what consultations you have had with the Prisoner at the Bar.

*Walkeley.* I came out of *Essex* in at *Aldgate*, just as I came in, a Proclamation was read for Tryal of his late Majesty, I went down the next day to the Painted Chamber at *Westminster*, where I saw *Oliver Cromwel*, *John Goodwin* and *Peters* and others; *John Goodwin* sat in the middle of the Table, and he made a long speech or prayer, I know not whether, but *Mr. Peters* stood there: after *John Goodwin* had done his prayer, it was desired that strangers might avoid the room (then came up *Cook*, and *Dorislaus*, and *Humphreys*, and *Ask*, and *Dendy*, and several others, and stood by *Bradshaw* at the upper end of the Table) But *Cromwel* stood up and told them it was not necessary that the people should go out, but that was overruled, and so I went out and stayed their rising, and saw this Gentleman *Mr. Peters* come out with them. After that, when the King was brought to Town a prisoner, the Lord *Carew*, a very honourable person, meeting with me, saith he, *Walkeley*, if you will see your old Master, go now, or else it may be you will never see him. Where is he my Lord? said I, saith he, he is coming on this side *Brainford*. I went to the farther end of *St. James* Corner, and there I met some of the Army coming, and then I saw his Majesty in his Coach with six horses, and *Peters* like Bishop *Almoner* riding before the King triumphing, then after that, in *St. James* Park, I saw *Peters* marshalling the Souldiers, and I was forced to go about. My Lord, this is all I can say concerning that, I remember one thing further of him, I heard him in *Westminster-Hall* say, within a year or two after the Army was raised, *If we can keep up our Army but seven years longer, we need not care for the King and all his posterity.*

*Mr. Proctor* sworn.

*Pr.* I having occasion to go from *London* to *Windsor*, the day that the King was brought from thence a prisoner, a little on this side *Brainford*, I saw great Troops of horse, I did

conceive

conceive what the cause was, having heard the *King* was to be brought up to his Tryal, after I had passed some number of horses, at last I espied the Prisoner at the Bar immediately before the *Kings* Coach, singly riding before the Coach-horses, and the *King* sitting alone in the Coach. My Lord, I did put off my hat, and he was graciously pleased to put off his hat, the Troopers seeing this, they threw me into the ditch horse and all, where I stayed till they passed by, and was glad I escaped so.

*Hardwick Sworn.*

*Coun.* When the Proclamation was read in *Westminster-hall* for tryal of the *King*, did you see Mr. *Peters* there?

*Hard.* I was in the Hall when that ugly Proclamation was proclaimed, where I saw *Dendy*, *King*, and that Gentleman the Prisoner at the Bar in the hall; After the Proclamation was proclaimed, the prisoner at the Bar came out into the Palace-yard and told them, *Gent. saith he, (a great many Officers Soldiers being there) all this is worth nothing unless you proclaim it in Cheapside, and at the Old Exchange.*

*Council.* Explain your self, what Proclamation do you mean?

*Hard.* The Proclamation for the High Court of Justice.

*Holland Simson Sworn.*

*Coun.* What do you know concerning the prisoner at the Bar?

*Simson.* I do know Mr. *Peters* very well, I have known him these 12. or 13. years. When the High Court of Justice was sitting, both in the Court and Painted Chamber I saw this Gentleman in consultation there, and at several other places, at *St. Will. Brereton's*, and other where.

*Coun.* Did you see him at the Tryal?

*Simson.* I saw him but not as a Judge. There was one day in the Hall Coll. *Stubbards*, who was Adjutant General ( he was a very busie man ) and Coll. *Axtel*. Mr. *Peters* going down the stairs, comes to him and bids *Stubbards* to command the Souldiers to cry out *Justice, Justice, against the Traytor at the Bar.*

*Coun.* Who did he mean?

*Sim.* The King was at the Bar at the same time, where upon my Lord, the Souldiers did cry out upon the same, and as the King was taken away to *Sr. Robert Cottons*, some of them spit in the Kings face, but he took his handkerchief, wiped it off and smiled.

*Peters.* *I do not know this Gentleman, did he ever see me?*

*Sim.* Yes, divers times in the Painted Chamber, at *Sir William Breretons*, at the Deanery, in consultation with *Bradshaw*, and you were admitted and no man else as I know, unless *Sir Will. Brereton* who came along with you.

*Thomas Richardson Sworn.*

*Richardson.* My Lords, the first day that this Court of Justice (as they called it) did adjourn, I went up into the Court, and I saw the Prisoner at the Bar with some more standing in the Court, and I came and stood close by him, and some with him whom I did not know, I heard him commend *Bradshaw*, the carriage of him in the tryal of the King, and another *Cooks* carriage: to be short, *Mr. Peters* holding up his hands, said, *this is a most glorious beginning of the work.*

*Sir Jeremy Whitchcot Sworn.*

*Wh.* My Lords, I have by accident, not by choice been several times in *Mr. Peters* company, truly I have heard him speak very scurrilously of the King, amongst the rest, he was making some kind of Narration of *Cromwel* making an escape, and that he was intended to be surpris'd, *that if he had not presently gone away, he had been clapt up in the Tower, and declared a Traytor, he said there was a meeting of the Officers of the Army, where he used this expression; And they we did resolve to set aside the King.* My Lord, after this (as I was at another time) he was speaking of that which they called the High Court of Justice, and I do very well remember this was his expression of it, I cannot but look upon this Court with a great reverence, for it doth resemble in some measure the tryal that shall be at the end of the world by the *Srs.* This is all that I perfectly remember. It was a great while ago, I cannot speak more punctually, I have seldom heard him speak of the K. but of the Tyrant. I remember one time he was

saying he would have preached before the King, but said he,  
*the poor wretch would not hear me.*

*Rich. Nunnelly Sworn.*

*Coun.* Was *Peters* upon the Scaffold at the time of Execution or before?

*Nun.* On that unhappy day 30. Jan. 1648. this *Hugh Peters* came an hour before the King came to *Whitehall*; I came with a warrant of 40. or 50000. l. to *Oliver Cromwel* being door-keeper to the Committee of the Army, *Nunnelly*, sayes *Oliver Cromwel*, will you goto *Whitehall*? Surely you will see the Beheading of the King, and he let me into *Whitehall*: coming into the boarded Gallery, I met *Hugh Peters*, and he was in the Gallery, and then I got with *H. Peters* into the Banqueting-house, being there, *Hugh Peters* met one *Tench* of *Hounsduch* that was a Joyner, meeting him, he speaks to him and whispers in his ear and told him somewhat, I do not know what it was, but *Tench* presently went and knocked four staples upon the Scaffold, I meeting *Tench* again, what art thou doing said I? what will you turn hangman? saies he, this day will be a happy day; said I, pray God send it be not a bloody day, upon that *H. Peters* went upon the Scaffold just an hour before the King came, and then he went off again, I watched at the window, when the Kings head was cut off, and afterwards I saw the *Vizards* going into a Chamber there, about an hour afterwards (I staying there at the Door) there comes *H. Peters* in his Black Cloak and broad Hat out of that Chamber (as I take it) with the Hangman, I am sure I did see him go along with the Hangman to take water; this is all I can remember, it being many years since.

*Peters.* I humbly beg I may be heard in this case, I have here a witness, and I desire he may be examined; it is noised I was upon the Scaffold, I here call God to witness, I was not out of my Chamber that day, I was sick that day, I speak in the presence of the Lord.

*Court.* If your witness will stay he shall be heard, there are more witnesses to the same thing, and so he may speak all together.

*Dr. Mortimer Sworn.*

*Mortimer.* Me Lar, me ha ferd de King, &c.

*Court.* We cannot understand a word.

*Coun.* He is a Frenchman, my Lord.

*Court.* Pray let there be an interpreter.

One Mr. *Young* was sworn to interpret truly his evidence.

But it being afterwards found difficult and troublesome, the Council waded his evidence, and prayed another witness might be called.

*Dr. Mortimer.* Me Lar, me can peak Englis—

*Coun.* No, no, pray sit down, we will examine other witnesses, call *Stephen Clough*.

*Stephen Clough Sworn.*

*Coun.* What do you know of *H. Peters*?

*Clough.* My Lords and Gentlemen of the Jury, in 1648. I heard of a meeting of the Council of Officers at *Westminster*, I think in the Painted Chamber, and I willing (my Lord) to hear what their consultations were, I went thither, and was there as one of them, (but I was not one,) amongst the rest *H. Peters* was one, when the room was pretty full the door was shut, Mr. *Peters* desired to call for a blessing upon their business, in his prayer he uttered these words, O Lord, (saith he) what a mercy it is to see this great City fall down before us; and what a stir is there to bring this great man to tryal, without whose blood he will turn us all into blood if he reign again!

*Peters.* What day was this?

*Clough.* It was about three weeks or a month before the King dyed.

*Peters.* Where was this?

*Clough.* In the Painted Chamber.

*Peters.* You have been very bold.

*Clough.* I speak upon my Oath.

*Peters.* How long was this ago?

*Clough.* In 1648.

*Peters.* How many years since is that?

*Clough.* You know your self sure how many years since 1648.

*Peters.* How long before the King dyed do you say?

*Clough.*

*Clough.* About three weeks or a month before the King was murdered.

*Comm.* We shall call a witness to prove, that in *Decemb.* 1648. there was a solemn Fast appointed to seek God in what they were about, and *Mr. Peters* was appointed to preach before them.

*Mr. Beaver Sworn.*

*Mr. Beavers Evidence.* My Lord, and you Gentlemen of the Jury, upon a day that was appointed for a Fast for those that sate then as a Parliament, I went to *Westminster* to find out some company to dine with me, and having walked about an hour in *Westminster-Hall*, and finding none of my friends to dine with me, I went to that place called Heaven and dined there; after I had dined, I passed through *St. Margarets Church-yard* to go home again, ( I lay in the *Strand*, ) I perceived all the Church-yard full of Muskets and Pikes upon the ground, and asked some Souldiers that were there, what was the business? they told me they were guarding the Parliament that were keeping a Fast at *St. Margarets*; who preaches said I? they told me *Mr. Peters* is just now gone up into the Pulpit, said I, I must needs have the curiosity to hear that man, having heard many stories of the manner of his preaching, ( God knows I did not do it out of any manner of devotion ) I crouded near the Pulpit, and came near the Speakers Pew, and I saw a great many of the Members there, whom I knew well: I could not guess what his Text might be, but hearing him talk much of *Barabbas* and our Saviour, and insisting altogether upon that, I guessed his Text was that passage, wherein the *Jews* did desire the release of *Barabbas* and crucifying of Christ; and so it proved, the first thing I heard him say was, *it is a very sad thing that this should be a question amongst us, as among the old Jews, whether our Saviour Jesus Christ must be crucified or that Barabbas should be released, the oppressor of the people: O Jesus*, said he, *where are we, that that should be a question amongst us? saies he, And because that you should think my Lords and Gentlemen, that it is a question, I will tell you it is a question; I have been in the City, which may very well be compared*

to Hierusalem in this conjuncture of time, and I profess those foolish Citizens for a little trading, and profit, they will have Christ ( pointing to the Redcoats on the Pulpit stairs ) crucified, and that great Barabbas at Windsor released, sayes he, but I do not much heed what the rabble sayes : I hope, sayes he, that my brethren of the Clergy will be wiser, the lips of the Priests do use to preserve knowledge, I have been with them too in the Assembly, and having seen and heard what they said, I perceive they are for crucifying of Christ and releasing of Barabbas, O Jesus, what shall we do now ? with such like strange expressions, and shrugging of his shoulders in the Pulpit.

Councel. How long was this before the King was murdered ?

—It was a few dayes before the house of Commons made that thing called An Act for his Tryal.

Coun. What did he say to the Members ?

—I am coming to it, sayes he, My Lords and you noble Gentlemen of the House of Commons, you are the Sanhedrim and the great Councel of the Nation, therefore you must be sure to do Justice, and it is from you we expect it ; you must not only be inheritors of your Ancestors, but you must do as they did, they have opposed Tyrannical Kings, they have destroyed them, it is you chiefly that we look for Justice from. Do not prefer the great Barabbas, Murderer, Tyrant, and Traytor before these poor hearts ( pointing to the Redcoats ) and the Army, who are our Saviours : and thus for two or three hours time that he spent, he did nothing but rake up all the reasons, arguments and examples he could to perswade them to bring the King to condign, speedy and capital punishment.

Peters. I do not know you, are you sure you saw me at that time ? Do you know me ?

—Yes Sir.

Peters. I did not preach there at that time.

Coun. Pray my Lord will you call Mr. Jessop, who hath the Records of the Parlia. and can produce the Order, whereby you were appointed to carry on the work of that Fast, there was the Order for his preaching, and Order for thanks for his work.

Mr.



Mr. Jessop produced the Journal, wherein was the Order following, which was read.

Cl. reads, Die Jovis 7. Septemb. 1648. Resolved that there be a day of publick Humiliation for this House to seek God in these times of difficulty, and that to morrow be the day and kept here in this House. Resolved that Mr. Peters, Mr. Marshall, and Mr. Carril be desired to perform the duty on the day of Humiliation with the House to morrow.

Coun. That is not it we intend, there was one after that in Decemb. 1648.

Cl. reads, 20 Decemb. 1648. Ordered that Mr. Peters be desired to preach on Friday next, the day of publick Humiliation at Margarets Westminster, in the place of —

Coun. Call Mr. Chase. After this the work went on, and the High Court of Justice sate; and the first day they sate was Saturday the 20. Jan. in Westminster Hall, the 21. being the Sunday following, I think this Gentleman was at Whitehall, he will tell you what he preached.

Mr. Chase sworn.

Chase. My Lord, I heard the Prisoner at the Bar preaching before Oliver Cromwell and Bradshaw, who was called Lord President of the High Court of Justice, and he took his Text out of the Psalms, in these words, Bind your Kings with chains, and your Nobles in fetters of iron; that was part of the Text: But sayes he in his Sermon, Beloved, it is the last Psalm but one, and the next Psalm hath six verses, and twelve Hallelujahs, praise ye the Lord, Praise God in his Sanctuary, and so on; for what saies he? look into my Text, there is the reason of it, That Kings were bound in chains, &c. He went on with a story of Major and a Bishop and his man, the Bishops man, saith he, being drunk, the Major laid him by the heels, the Bishop sends to the Major, to know by what authority he imprisoned his servant, the Majors answer was, there is an Act of Parliament for it, and neither the Bishop nor his man are excepted out of it: and applyed it thus, Here is saith he, a great discourse and talk in the world, what? will ye cut off the Kings head, the head of a Protestant. Prince and King? turn to your Bibles and you shall find it

there, *Whosoever sheds mans blood, by man shall his blood be shed*, saies he, I will even answer them as the Major did the Bishop, here is an Act of God, *Whosoever sheds mans blood, by man shall his blood be shed*; and I see neither *King Charles*, nor *Prince Charles*, nor *Prince Rupert*, nor *Prince Maurice*, nor any of that *rabble* excepted out of it. And further he said, This is the day that I and many Saints of God besides have been praying for these many years.

*Peters. Ask him whether he took notes.*

*Chafe.* No Sir, but it being so memorable a Sermon, I took special notice of it, I came to my Brothers house at *Shoolane*, and told him; said I, Brother, I have been at *White-Hall*, and have heard the most execrable business that ever was heard in the world by a Minister of the Gospel, and I told him the words; I observed that *Oliver Cromwell* did laugh at that time when you were Preaching.

*Tho. Tongue sworn.*

*Coun.* What do you know of the Prisoners preaching?

*Tongue.* Upon *Jan. 21. 1648.* I was at *Whitehall* where this Gentleman preached, and he preached upon this Text, *149. Psalm v. 8.* To bind their Kings in chains, and their Nobles in links of iron; in which Text this *Peters* did much applaud the Souldiers there, he said he hoped to see such another day following as the day before, and that blessed be God (saies this Parson *Peters*) the House, the lower House is purged, and the House of Lords themselves they will down suddenly, this is all that I well remember at that time. Upon the 28. of *January 1648.* next day after sentence of the King, I heard *Peters* preach upon this Text in *S. James's Chapel*, *149. Psalm 6, 7, 8. 9.* verses. *Let the high praises of God be in their mouth, and a two edged sword in their hands, to execute vengeance upon the heathen, and punishment upon the people, To bind their Kings with chains, and their Nobles with fetters of Iron, To execute upon them the judgement written, this honour have all his Saints, praise ye the Lord:* And there he did so saint the Redcoats, and so reprobate the poor Kings friends. And in the middle of

his Sermon he took occasion to produce a Text 14. Esay 18, 19, 20. *All the Kings of the Nations even all of them lie in glory; every one in his own house. But thou art cast out of thy grave like an abominable branch, and as the raiment of those that are slain, thrust through with a sword, that go down to the stones of the pit, as a carcass trodden under feet, Thou shalt not be joyued with them in burial, because thou hast destroyed thy land, and slain thy people, the seed of evil doers shall never be renowned:* saies he, This I did intend to insist and preach upon before the poor wretch, and the poor wretch would not hear me.

*Coun.* Who did he mean?

*Tongue.* His Majesty, who was the day before condemned, faith he, look in your lesser Bibles, and you shall find the title is, *The Tyrants fall.*

*Coun.* That that was spoken of the King of *Babylon*, the ignominy that was cast upon him, he applies it to the King of *England*.

*Peters.* Ask him where it was?

*Tongue.* It was in *S. James's Chapel*, Sunday the 28. of Jan. 1648. in the forenoon.

*Reynold Bowdler Sworn.*

*Bowdler.* That which I have now to say is this, I did hear him a few daies before the King was murdered, preach in *S. Sepulchers Church*, there he compares the King that was then to dye to *Barabbas* a murderer, and in this manner, faith he, There is a great company amongst us, like the Jews, they cry out, Let *Christ* be crucified, and let *Barabbas* be released, still comparing the King to *Barabbas* the murtherer, these were his words, with many more to the same purpose.

*William Ryder Sworn.*

*Coun.* Speak what you know concerning the Prisoner.

*Ryder.* I was at the same time at Church in *S. Sepulchers*.

*Coun.* How long was that before the King dyed?

*Ryder.* It was very near the Kings death.

*Coun*

*Coun.* Was it after the High Court of Justice fate, as they called it?

*Ryder.* About that time it was. My Lord, as soon as ever he had read the words of his Text, which was, *He shall call his name Emanuel*, he presently shook hands with his Text, and fell (as he was wont) to news, and there he said, the great inquiry now is to know what should become of the King, let that alone, saith he, and presently he falls to it again, and was pleased to stile the *King Barabbas*, saith he, there is a great many of the people had rather *Christ* should be crucified than *Barabbas*, and here he was applauding the Souldiers, and said that *Emanuel* was written upon the bridles of their horses, and he was speaking of the *Kings* Souldiers, saith he, I have known eighty thousand of them, and not one of them a gracious person.

*Coun.* Now we expect the Answer of the Prisoner at the Bar, the Indictment hath been fully proved.

*Peters.* I desire that witness may be admitted which I spoke of, his name is Cornelius Glover.

*Coun.* We have omitted one evidence, we desire Master Walker may be called.

*Mr. Walker Sworn.*

*Walker.* On Sunday after the King was first brought to his tryal, out of curiosity, I went to hear Mr. *Peters* at *Whitehall*, after he had made a long prayer, saith he, I have prayed and preached these twenty years, and now I may say with old *Symeon*, *Lord now lettest thou thy servant depart in peace, for mine eyes have seen thy salvation.* Afterwards he speaks of the Text, of *binding their Kings in chains*, &c. then much reviled the King: but soft there, saith he, I must not talk so here, I am in the *Kings* Chapel: there is a very remarkable passage in *Amos*, *Amos* went to preach, and *Amazia* would not let him; but *Amos* would preach, the poor wretch would not hear me, but yet I will preach. Afterwards he speaks of the *Major* of *Exeter* that committed the Bishops servant for being drunk, saith the *Major*, here is an Act of Parliament for it, and I do not see that the Bishop

nor

nor his man are either of them excepted out of the Act: and saith he, in Scripture it is said, *Whosoever sheddeth mans blood, by man shall his blood be shed*; and I do not find that either King Charles, Prince Charles, Prince Rupert, Prince Maurice, or any of that rabble are excepted.

*Coun.* Now Mr. *Peters* you may call your witness.

*Cornelius Glover*, not sworn.

*Lord Chief Baron.* Where do you dwell?

*Glover.* In *Pauls Church-yard*.

*Lo. Ch. Bar.* What is your quality of life?

*Peters.* A servant of the Kings.

*Lo. Ch. Bar.* I do not ask you, Mr. *Peters*.

*Glover.* I belong to the Post-house.

*Peters.* Pray hear him speak.

*L. Ch. Bar.* What would you have him asked?

*Peters.* Whether I was out of my Chamber that day the King suffered?

*Lo. Ch. Bar.* What say you to that?

*Glover.* I was come to Mr. *Peters* a little before that time to live with him as his servant, it fell out that day he was ill in his chamber all the morning, the Souldiers in *S. James's-house* were all gone away, I had a desire to go see the meeting where they were at *Whitehall*, saith he, thou seemest to have a great desire to go and look about thee, it is very sad, but if you will go you may. I did go over the Park.

*Coun.* What time?

*Glover.* About noon.

*Coun.* What hour?

*Glover.* I do not know. I did not stay there, the soldiers and the people fill'd the place, and I went back again to the chamber, I came back again within a matter of an hours time.

*Coun.* Was the King dead before you came back again?

*Glover.* They said he was not, when I went home he asked me what was doing? I told him there was a great croud, I could not come near: I staid there an hour, and then went out again, and still there was a croud, and I came

came back again, and M. Peters was in his chamber then.

Coun. Was he in bed, or up?

Glover. I do not remember.

Coun. How old were you then?

Glover. I am not above 32. or 33.

Coun. Was Mr. Peters sick?

Gl. Yes, He was melancholy sick, as he used to be.

L. Ch. Bar. How long have you been at the Post-office?

Gl. About five years.

L. Ch. Bar. M. Peters have you any more to ask him?

Peters. *I brought him to testifie that I was not out of my Chamber that day, and that I was sick,*

L. Ch. Bar. Did you desire to go, or did he send you?

Gl. I did desire to go being newly come to London.

Lord Ch. Baroff. This Gentleman though not upon oath is examined, and it is only to one particular, nothing at all to the main proofs.

Peters. *I bring him only to vindicate my self from that aspersi-  
on of my being upon the Scaffold.*

L. Ch. Bar. They do not lay the weight of their evidence upon that. The Kings Council have done with their evidence, if you have any thing to say, you have your liberty.

Peters. *May it please your Lordships, I will give you an account of the business, I lived fourteen years out of England, when I came over I found the wars begun, I began no war, my Lord, nor have been the Trumpeter, when I came out of the West Indies, I fled from the War into Ireland, to the Western part there, and it was after the Rebellion, when some of the Irish had been stirring there, I went and spent my time there. I was neither at Edge-hill nor Naseby, but my Lord, after I came over there was War that the people were engaged in, I was not here in the beginning of it, but was a stranger to the carriage of it. When I came into the Nations, I looked after three things, one was, that there might be sound Religion. The second was, that learning and Laws might be maintained. The third, that the poor might be cared for, and I must confess I have spent most of my time in these things, to this end and purpose; there was a noise in all parts of some miscarriages in mat-*

ters of Religion, after it was settled I lived in Ireland, I must  
 profess for my own part solemnly that my carriage hath been up-  
 on these heads. For Religion I have, through Gods mercies,  
 spoke the truths of the Protestant Church, upon this account I did  
 stay to see what God might do, I was sent over to his Majesty that  
 we might have a little help in point of Excise and Customs, and  
 encouragement in learning. My Lord, this is true, that I being  
 here in the Nation, and being sent over upon the occasions  
 of the Countrey, and not upon any design, but this I say, (I can-  
 not deny it.) that after I came over, and had seen the state of  
 England, in some measure I did stir, but by strong importuni-  
 ties, the Ministers of London deeper than I: I am very sorry to  
 hear of my carriage towards the King, it is my great trouble, I  
 beg pardon for my own folly and weakness, I thought God had  
 a great controversie with the Nation, and the Lord was displea-  
 sed on all hands, that which some people took to, I did take unto,  
 I went into the Army, I saw at the beginning of it, that corrupti-  
 ons grew among them, I suppose none can say I have gone aside  
 from any Orthodox truth of the Lord: And now to take off the  
 scandal upon me, and to the business, let me beg of your Lordships  
 to consider whatever prejudices or revenge may take up mens  
 hearts, there is a God that knows all, God hath a regard to the  
 people of England. I look upon this Nation as the Cabinet of the  
 world. That that doth concern the business is this, my Lord, that  
 after this time hither I came, and did bear witness to all the world  
 that there was amongst us something that was for better, and some-  
 thing worse for the Nation, I took advice of some great persons  
 concerning the weightiness of it, I had neither malice nor mis-  
 chief in my heart against the King, upon this I did engage  
 so far as being invited, I went into the Wars, and there  
 I found very strange and several kinds of providences, as  
 this day hath been seen; I do not deny but that was active,  
 but not to stir in a way that was not honourable. I  
 challenge a great part of the Nations to manifest my carriage  
 among them, I shall make it good divers ways, I had so much respect  
 to his Majesty particularly at Windsor, that I propounded to his  
 Majesty my thoughts three ways to preserve himself from danger,  
 which were good as he was pleased to think, though they did not suc-  
 ceed,



ceed, and the work died; as for malice, I had none in me. It is true, there was a difference amongst us, an Army, and an Army, I never had a groat or penny from O. Cromwel since I knew this place, I profess I have had no ends for honour or gain, since I set foot upon this shore, I challenge any man that belonged to that party, whether they had not the same respect from me as my own party, I have not persecuted any with malice, I will only take off malice.

*L. C. B.* Your business is matter of fact.

*Peters.* I am unskilful in Law, this that I offer, is to shew that I had no malice in me, I was so far from malice, that I have a Certificate, if worth the reading, from one of the Eminentest persons in the Nation, to shew I had no malice. It is concerning the Marques of Worcester under his Ladies hand, beginning with these words, I do here testifie that in all the sufferings of my husband, Mr. Peters was my great friend, &c. I have here a seal, ( and then produced it ) that the Earl of Norwich gave me to keep for his sake, for saving his life, which I will keep as long as I live.

*L. C. Bar.* I am not willing at all to interrupt you, or hinder you, that which you speak of doing good services is not at all to the point, we do not question you for what good you have done, but for the evil you have done, I hope there is no malice in your heart, nor upon the Court nor Jury, we and they are upon our Oaths, you hear the matter alledged against you, pray come to the matter.

*Peters.* My Lord, I cannot remember them.

*Lord Ch. Baron.* Then I will remember you, you are charged by this Indictment for compassing and imagining the death of the King, and there is set forth sundry particulars to prove the overt act, that you with other persons named in that Indictment, did consult and meet together, how to bring about the Kings death. Then you are charged with several Acts of contriving and endeavouring the Kings death. Overt acts that tend to the compassing or imagining the Kings death, or any one of these; to encourage the bringing on the King to his death, the consulting or meeting together about it, though you did not sit or sentence;

sentence ; yet if you did any thing tending to that incou-  
 ragement, or otherwise abet it , comfort or any wise ayd  
 those trayterous persons that did it ; in the doing of it you  
 are by law guilty of the whole fact : the proposing and  
 determining the King shall die, though you were not he  
 that actually put him to death, yet notwithstanding, if you  
 did the other, you are guilty of all ; if you shall speak any se-  
 ditious speeches, be they in the Pulpit or out of the Pulpit,  
 if you shall utter any thing that tends to sedition, these are  
 open acts, which prove the imagination of the heart, though  
 imagination of the heart be Treason, yet it cannot be proved  
 but by open acts, yet the imagination it self is Treason; first  
 you did conspire, all the witnesses go along to prove this.  
 Dr. Young saith, you came over from *Ireland* to his house,  
 and after five days that you were recovered of the Flux, you  
 staid there ten weeks, you said your self, there was enough  
 if it were true, to condemn you or any man : I shall repeat  
 it to you, you told him a narrative, that you came from  
*New England*, from thence to *Ireland*, and then you came  
 to *Holland* with an intent to see how you might bring on the  
 Kingdom to be a Commonwealth : next he saith, you spake  
 very often against the King by way of disgrace against him  
 and his family, against the King and his off-spring, this  
 you said very often : then you spake in vilification of Mo-  
 narchical Government, that this Commonwealth would ne-  
 ver be at peace till 150. or three L's, Lords, Levites, and  
 Lawyers were taken away, at which he replied, then they  
 must be all Switzers, Tinkers or Traytors ; he swears you  
 were a Colonel, and had a Commission ; that you would  
 have had him accept of a Commission, and that you had two  
 Companies come from the West, you told him the Parliament  
 had an intent to secure *Cromwel* and your self, but that you  
 rid hard for it, and then you confessed you agreed then upon  
 his death, to bring him to tryal, and to cut off his head; you  
 did agree together, and he believes it was your advice to  
*Cromwel* ; your answer was this, that he was more violent  
 than your self, that he took upon him to be a spie, and that  
 he

he was no competent witness, because he was under a temptation, because you did not help him to his living, and so conceived it to be malice; you say, he was used to take up such courses in his own Country, the matter is not whether you had malice to the Kings life or Monarchy. For the next, one *Gunter*, he swears, that he was a Servant to Mr. *Hildesly*, at the Star in *Coleman-street*, and this was in 1648. he saith, that many of the party of *Cromwel* did use to resort thither, among the rest he saw you, he said he came in to them, and their discourse was about *Charles Stewart*, and the Prisoner—and did guess it was about the King, that you were privy to it then; he saith this was three daies before *O. Cromwel* went out of Town, the effect of that is urged no further than this, that you were so far of the Cabal, that you were present with those persons, *Cromwel*, *Ireton*, *Rich*, and others; you said, I was there once with Mr. *Nathaniel Fines*: *Starkey* he saith, that at his Fathers house *Ireton* lay, and was quartered there at *Windsor*, before and when the King was Prisoner; that you had your quarter there, and *Cromwel* too in that Town: The general meeting of the Council of War was at his Fathers house, there *Ireton* and his Wife lying there, you came and resorted thither very often; he saith then, that it appeared that after the Council of War had done, many times *Rich*, and you, and *Cromwel* and *Ireton*, were there together, sometimes till two a clock in the morning; he saith then, that he did observe there was a fifth person, (he did not remember his name) & you sate up usually till two or three in the morning, you had guards about you; he saith further, that *Ireton* being a Domestick, he often discoursed with him, and you came sometimes to be there too, that there being some discourse concerning the King many times he did assert the Law concerning him, that he was *solutus legibus* as to his person; that you should say, that it was an unequal law, and that you did then discourse fully against the K. Government: you said he was a Tyrant and not fit for that office, that the office was useles, chargeable and dangerous; these very words he observed, which afterwards were printed, when they took away Monarchy. He saith further,

further, that was their full and whole discourse; he saith, that his Father at Supper used to say that usual Grace, *God save the King, Prince and Realm*, but afterwards, that he heard the King was made a Prisoner, that his Father altering the Grace, he said, *God save his most Excellent Majesty, and deliver him out of all his Enemies hands*, you rose up, and said, old Gentleman your Idol will not stand long. That he did observe you often with them; he saith further, when *Bacon* was coming out, and speaking some words concerning your frequent affronting the King, you took up a staff and were ready to beat him, and made an uproar: it appears also of your being privy to *Cromwells* actions; the next witness is *Walkeley*, and he swears this against you, that he was in the Painted Chamber the next day after the Proclamation was made, and there he saw *John Goodwin* and You, and there was an assembly, and at the middle of the Table *John Goodwin* was, and made a long speech or prayer, that *Cromwel* would have had the people stay there, but it was ordered they should be turned out, at the end he saw you come out with the rest; there it appeared you were in the consultation; he saith, he met the Army at *St. James's*, and there, when they were half past, he saw the King in his Coach, and there he saw *Mr. Peters* like Bishop *Almoner* riding immediately before the King; and at *St. James's Park* he saw you marshalling the Souldiers, that he was forced thereupon to go about; he saith further, that within a year or two after the Army was raised, he heard you say these words, If we can keep up our Army seven years longer, we need not care for the King and all his posterity.

*Peters*. My Lord, I must deny abundance of this, the King commanded me to ride before him, that the Bishop of London might come to him.

*L.Ch. B.* But this was three weeks after—— The next witness against you is one *Proctor*, he saith, that day (as the other witnesses did) he saw you riding just before the Kings Coach, and because he did his duty the Souldiers threw

him

him horse and all into a ditch. The next witness is one *Hardwick*, he saith, that when the Proclamation was read, he saw you in *Westminster-Hall*, and that you said, they had done as good as nothing, unless it was proclaimed in *Cheapside*, and at the old Exchange, this you said to some of the Officers there.

Peters. *My Lord, I cannot acknowledge it.*

*L. Ch. Bar.* The next witness against you is *Simson*, he swears he saw you in consultation with *Oliver Cromwel* and take Sir *William Brereton* by the hand, and come to *Bradshaw*, and this during the time of the Kings Tryal, he saith further, that one day when the King was at his Tryal you commanded Colonel *Stubbers* to bid his Souldiers cry out, *Justice, Justice*, which they cryed, and afterwards some of the Souldiers spit upon the King.

Peters. *I do believe that he that swore that, cannot say I was there.*

*L. Ch. Bar.* Another witness is one *Richardson*, who saw you the first day in the Court; and he said further, that you commended *Bradshaw* and another, to wit, *Cook*, for their carriage in the tryal of the King. That you held up your hands, and said, this is a most glorious beginning of the work.

Peters. *Whereabouts in the Court?*

*Richardf.* In the body of the Court, called then the High Court of Justice.

Peters. *My Lord, I do not know that ever I was in the body of the Court.*

*L. Ch. Bar.* The next witness is Sir *Jeremy Whitchcot*, he saith, he heard you often speak scurrilously of the King, and making a Narrative of *Cromwels* escape, you said there was a meeting, and there we resolved to set aside the King; remember what the other witness said; we agreed, and here we resolved: you said, I cannot but reverence the High Court of Justice, it doth resemble the judging of the world at the last day by the Saints, so it was the Saints that sat there: I would have preached before the wretch, but the poor wretch would not hear me: you often call'd him Tyrant, I cannot possibly remember the place, things or words

that are alledged. Then you have another witness *Normelly*; he saith, he came with a warrant to *Oliver Cromwel* for some money, and that he should say, go and see the beheading of the King at *Whitehall*, he saith, there he met with you, (though you said you were not there that day) going to the Banqueting house, that you spoke to *Tench* and whispered in his ear, and that *Tench* went and knockt Staples on the Scaffold; he meeting *Tench* said, what are you a Hangman? saith *Tench*, this day will be a happy day; he saith, after all this *Hugh Peters* was upon the Scaffold, and that he went out with the Hangman——

*Peters.* I do profess to your Lordships before Angels and men, that I did not stir out of my Chamber that day.

*L. Ch. B.* The Council doth not put relyance upon that, because of what your witness saith, though his evidence is not at all satisfactory. The next is *Clough*, and he swears this, that he saw you in the Painted Chamber with the Council of Officers, and there you desired them to call on God for a blessing upon their business, and there you said, O Lord what a mercy it is to see this great City fall down before us, and what a stir is there to bring this great man to tryal, without whose blood he will turn us all into blood if he reign again, and this was about a month before the King was murdered.

*L. Ch. Bar.* You hear it Mr. *Peters*.

*Peters.* Some part I did, but it is impossible for me to bear down many witnesses, indeed my Lord, I say this, they are marvellous uncharitable, and speak many false things.

*L. Ch. Bar.* The next is this, the testimony concerning several Sermons of yours; and let me tell you, the Pulpit ought not to be a place where men with impunity may speak any thing, what they list of Sedition and Treason.

*Peters.* I am of the same judgement my self, my Lord.

*L. Ch. Bar.* And there was a solemn day to seek God, then you preached at *St. Margarets Church*, this was Mr. *Bever*; in he came and heard you talk much of *Barab.* and our Saviour, there you fell upon this, speaking of the K. it is a sad thing that it should now be a question, whether we should crucifie our Saviour *Jesus Christ*, or that great *Barabbat*, speaking of

the King ; you call'd him Traytor, Tyrant, Murtherer of his subjects, and the like, you went on in a way of a story, these Citizens for a little Trading they will have Christ crucified, and the great *Barabbas* at *Windsor* released, and said you, the Clergy, the Assembly, they are all for crucifying Christ and releasing *Barabbas* ; you made that expression, *O Jesus, what shall we do ?* the King was a Prisoner then at *Windsor*, you made your application to the Parliament that was then present, you told them the people did expect Justice from them, you must not prefer the great Tyrant and Traytor, naming the King, to these poor hearts ( the *Redcoats* standing by. )

*Peters. I must profess against most of that.*

*Lord Chief Baron.* There is the same by others. It is further proved by the Order that you were appointed to preach.

*Peters. I do not deny I preached, but not these things.*

*Lord Chief Bar.* The next thing is this, there was one Mr. *Chase*, this was during the tryal, he saith you preached at *Whitehall* upon this Text, the 149. *Psalms*, to bind their Kings in chains, and their Nobles in fetters of iron : you had two or three other verses more ; then you made a discourse of a Major and a Bishops man, the Bishops man being drunk, the Major committed him to prison, the Bishop being angry, asked by what authority, the Major said, there was an Act of Parliament for it ; he did not find that either the Bishop or his man was excepted, you applied that to the King, said you, I will shew you an act of the Bible, *Whosoever sheds mans blood, by man shall his blood be shed*, this doth not except the King, Prince, Prince *Rupert*, Prince *Maurice*, or any of that rabble.

*Peters. It is false.*

*Lord Chief Baron.* You said further, This is the day that I and many other Saints of God have prayed for these many years ; and *Oliver Cromwel* laughed at that time. The next witness was *Tongue*, he heard you preach, and he swears the same with the former ; that you applauded the souldiers, and that you hoped to see such another day following, as the



the day before, and that blessed be God the house is purged; and the Lords will be shortly pull'd out; and the twenty eighth day of *January*, which was the day after the King was sentenced, at *Saint James's* his Chappel, you took for your Text the 149. *Psalms*, the 6, 7, 8 and 9 verses, whereof these words were part, *To bind their Kings in chains, and their Nobles with fetters of iron*, there in the middle of that Sermon having spoken before of the King, you said you did intend to preach before the poor wretch, upon the 14 of *Isaiah* the 18, 19 and 20 verses, speaking of all the Kings of the nations, *Thou art cast out of thy grave like an abominable branch, &c.* he saith further, you said look upon your lesser Bibles, and you will find the title is, *The Tyrants fall*. There is another witness, that is one *Bowdler*, a few days before the Kings death, at *S. Sepulchres*, there you fell upon the old comparison, all along you compared the King to *Barabbas*, and that a great many would have *Christ* crucified, and *Barabbas* released, all along comparing the King to *Barabbas*. One more, and that was *Ryder*, he heard this text, *He shall call his name Emanuel*, you fell to speak of news, what shall become of the King? and you said the King was *Barabbas*, and a great many would rather have *Christ* crucified than *Barabbas*. And then *Mr. Walker* he saith, that after the King was first brought to his tryal, he heard you say this, I have prayed and preached this twenty years, and now may I say with old *Simeon*, *Lord now lettest thou thy servant depart in peace, for mine eyes have seen thy salvation*: he mentions that you made use of the other comparison of the Major and the Bishops man, and inferred from thence, that the King and Prince, &c. were not excepted out of the Scripture, where it is said, *Whoever sheds mans blood, &c.* you have heard all this witnessed against you, what have you to say for your self?

*Peters. These are but single witnesses.*

*Lord Chief Baron.* The statute is two witnesses for Treason, but not two to one individual thing, though there are several witnesses have proved the same thing about *Barabbas* and our Saviour. Bind their Kings with chains, &c. and

of your other actions there is a whole Jury of witnesses, two witnesses expressly, we agreed upon the Kings death, and we resolved to set the King aside.

*Pet. I do not know the witnesses.*

*Lord Chief Baron.* One is Sir *Jeremy Whitchcot*, the other is *Doctor Young*, you shall do well if you have any thing to say to invalidate these witnesses to speak to it, else the Jury will be sent together to deliver up their verdict.

*Peters.* *My Lord, if I had time and opportunity, I could take off many of the witnesses, but because their testimony is without control, I cannot satisfy myself, I have no skill in the Law, else I might have spoke for myself; I do not know what to say more, unless I had more time and counsel.*

*Mr. Soll. Gen.* If the prisoner can say no more, here is this in it, here are five places where he did consult about the Kings death, at *Windsor*, at *Ware*, in *Colemanstreet*, in the *Painted Chamber*, and in *Bradshaws house*; and four witnesses to prove this; there are two witnesses to his comparison of the K. and *Barabbas*, and two witnesses to his text of binding their K. in chains, &c. proof that he hath been in action in *New-Eng.* that he came from it with that intent, and then went to *Holland*, that he had been in arms, that he called the day of his Majesties tryal a glorious day, resembling the judging of the world by Saints, he prays for this in the *Painted Chamber*, preaches for it at *Whitehall*, *S. James's Chapel*, *Sepulchres*, what man could more contrive the death of the King than this miserable Priest hath done? the honour of the Pulpit is to be vindicated, and the death of this man will preach better than his life did, it may be a means to convert many a miserable person whom the preaching of this person hath seduced, for many come here, and say they did it in the fear of the Lord, and now you see who taught them, and I hope you will make an example of this carnal prophet.

*The Jury went together and after a little consultation  
settled in their places.*

*Cl.* Are you agreed in your Verdict?

*Jury.* Yes.

*Cl.* Who shall say for you?

*Jury.* Our foreman.

*Cl.* How say you, is the prisoner at the Bar guilty of the Treason whereof he stands indicted, or not guilty?

*Foreman.* Guilty.

*Cl.* And so you say all?

*Jury.* Yes.

*Cl.* Look to him Keeper.

*Coun.* We desire Mr. Cook may be brought to the Bar, and that they may both have their judgement pronounced.

*Cl.* John Cook hold up thy hand, what hast thou to say why the Court should not pronounce judgement for thee to dye according to Law?

*Cook.* I have a few words, matter of Law: First, there is no averment in the Indictment that *J. Cook* mentioned in the Act of Indempnity, is the same with the *John Cook* mentioned in the Indictment, and that I am the *John Cook* mentioned in both.

*L. Ch. Bar.* This will not help you in this case, you have owned and have pleaded by the name of *John Cook*.

*Cook.* The second is this, that the overt acts should be particularly expressed in the Indictment.

*L. Ch. Bar.* This cannot be alledged in arrest of judgement, the Jury have found you guilty of compassing and imagining the death of the King, by the statute of 25 *Edw. 3.* and this cannot help you.

*Cook.* I say it was professionally.

*L. Ch. B.* That hath been overruled already, we have delivered our opinions; the profession of a Lawyer will not excuse them, or any of them from Treason, and this hath been overruled and is overruled again.

*Cook.* I humbly conceive that the remaining part of the House of Commons were to be Judges whether there was a force or not.

*L. Ch. B.* This is all past and overruled.

*Cook.* Then I have no more.

*Cl. Hugh Peters,* Hold up thy hand, what hast thou to say for thy self why Judgement should not pass against thee to die according to law?

*Peters.* *I will submit myself to God, and if I have spoken any thing against the Gospel of Christ, I am heartily sorry.*

Silence Commanded.

*L. Ch. Bar.* You are both persons of that ingenuous and liberal education as I hope I shall not need to tell you what it is to die, you have had a great a deal of time to think of it ; you could not but think of this issue of your doings long ago, and therefore I shall spare my labour of telling you what it is to die, and of that eternity that you are to enter into, only give me leave in a few words in relation to both of your professions to say something, to shew the nature and hainousness of this offence, the murder of the King, if you were not actually guilty of putting the King to death, nay, admitting (in charity) you had no intent to go as far as you did, you are by the laws of Christ, and this Nation, guilty of high Treason, in that, you that are a Lawyer know very well (and I speak it that you may lay it to your heart in the convictions of your conscience. I must say to you as *Joshua* said to *Achan*, *my son give glory to God and confess*, and it would become you so to do,) you know very well it is the law of this Nation, that no one house nor both houses of Parliament have any coercive power over the King, much less to put him to death ; you know (as you cited very well) that the imprisoning of the King is Treason. You know both of you, this is an undoubted truth, the rule of Law is, that the King can do no wrong, that is, the King can do no wrong in the estimation of Law, he may do some particular Acts as a private person ; but he can do little prejudice in his own person ; if he would hurt any, it must be by Ministers, in that case the Law provides a remedy, if he doth it by Ministers, they must answer for it. The King of *England* is one of those Princes who hath an Imperial Crown, what is that ? It is not to do what he will, no, but it is, that he shall not

be punished in his own person if he doth that which in it self is unlawful. Now remember this when you took the oaths of Allegiance and Supremacy (I presume you both did so) what was your oath of Supremacy? It was this, that the King was the only Supream Governour of these Realms, it goes farther, as he was Supream Governour, so he was the only Supream Governour, that excludes Coordination, you swear farther, that you will to the utmost of your power defend the King against all conspiracies and attempts whatsoever, truly you that were a Lawyer when you had thus sworn, your fee could be no excuse against what you had sworn to. We know that the King in his politick or natural capacity, is not only *salus populi* but *salus Reipublicæ*. The Law hath taken care that the people shall have justice and right, the Kings person ought not to be touched, the King himself is pleased to judge by the Law, you see he doth by Law question the death of his Father, he doth not judge it himself, but the Law judges it. Mr. *Peters* knows very well he subscribed the 39. Articles of Religion, look upon them that were made in 1552. and upon those Articles that were confirmed in 13. *Elizabeth*, the King is there acknowledged to have the chief power in these Nations, the meddling with the King was a Jesutical doctrine; This I speak, not that the King should or ought to govern but by the Fundamental laws of the land, they that keep within the bounds of the law are happy, you that are a Lawyer, know this in point of law, and you that are a Divine, know this in point of Divinity. You both know the truth of it, and when you have thought upon it, I hope you will reflect upon that horrid crime, the shedding of Royal Blood. You see he had granted all those grievances of the people, taken them away, secured them for the future, and at this very time, when this horrid act was done, you see he had granted all at the desire of the people, he had made those concessions such, as (were it not in respect of others more than those that treated themselves) they thought was more than could be expected by the Nation. You that had a hand in the Kings death, it falls upon you, the guilt of it, because

you were some of those instruments that assisted those persons that broke the Treaty, prepare your selves for that death which you are to die, it is a debt which we all owe to nature, if in this case there is something of shame comes to you, it is that you must take as part of the reward of your sin. The only work I have now to do, is to pronounce the Judgment, and this is the judgment of the Court, and the Court doth award, That both of you be led back to the place from whence you came, and from thence shall be drawn upon a hurdle, &c. and the Lord have mercy upon your souls.

*Cl.* Cryer make proclamation.

*Cryer.* O yes, &c. All manner of persons, &c. and all Jurors and witnesses, are to appear at this place to morrow morning at seven of the Clock in the morning upon pain of 100. l. a piece. So God bless King Charles &c.

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15. October

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15. Octo. 1660. at the Sessions House in the Old Bailey.

The Tryal of *William Hewlet*,

*Memorandum*, that the Bill of Indictment against *William Hewlet* alias *Howlet* was found at *Hickes-hall* 12 Octob. instant.

Proclamation of the Court being made,

Clerk of the **S** E T *William Hewlet* alias *Howlet* to the Bar: Crown. which was done accordingly.

Cl. *William Hewlet* alias *Howlet* hold up thy hand. Thou standest Indicted of High Treason in the County of *Middlesex*, by the name of *William Hewlet* alias *Howlet*, for that thou, &c. How sayest thou, art thou guilty of the High Treason whereof thou hast been Indicted and art now arraigned, or not guilty?

*Hewlet*. I am not guilty my Lord.

Clerk. How wilt thou be tryed?

*Hewlet*. By God and the Countrey.

Cl. God fend thee a good delivery.

Set him aside.

Octob. 15. 1660.

Clerk of the Crown. Set *Axtell* to the Bar; which was done accordingly.

Clerk. *Daniel Axtell* hold up thy Hand.

*Axtell*. Pray my Lord, let me have Pen and Ink.

L. Ch. Bar. Give Mr. *Axtell* Pen and Ink.

Cler. *Daniel Axtell*, these men that were last called of the Jury are to pass, &c. if you will challenge them or any of them, you must challenge them when they come to the Book before they are sworn.

L. Ch. Bar. Do you know how many you have liberty to challenge? because I would not have you misinformed, 35 you may challenge peremptorily, and no more.

*Axtell*.



*Axtell.* I thank you Lordship.

*L. Ch. Bar.* Unless you have any particular cause ; if so, you may challenge more.

*Axtell.* I confess I am wholly ignorant of the law.

*John Kirke, John Smith, Thomas Morris, Ralph Halsell, John Sherecroft, Francis Beale, Robert Cromwell, John Gallyerd, John Shelbury, George Rithe,* were called, and by the Prisoner challenged.

*Thomas Bide, Charles Pitfield, Robert Sheppard, William Dod, Thomas Usman, William Maynerd, George Plucknet, Samuel Harris, John Nicoll of Hendon, Henry Marsh, Thomas Bishop, Thomas Snow,* in all 12 were admitted, and sworn of the Jury.

*Cler. of the Crown.* If any man can inform my Lords the Kings Justices , &c.

*Ch. Daniel Axtell* hold up thy hand. Look upon the prisoner you that are sworn, and harken to your charge ; you shall understand that the prisoner stands Indicted, &c.

*K. Council.* May it please your Lordships, and you Gentlemen that are Sworn of this Jury, The High Court of *Injustice* that was Erected for Tryal of the late King, it had all the formalities of a Court to put in Execution that bloody Act ; they had their *President*, their Council, their Chaplain, and their Guards : some of their Judges have been already Tried, one of their Council, and their Chaplain. Now my Lord, we come to the Guards, and this Gentleman at the Bar , that is now the Prisoner, He was Commander of that Black Guard, that cruel and bloody Guard : The Indictment is , *That he did Imagin and compass the Death of the King* ; there be several overt acts that are mentioned in the Indictment as Evidences of that Imagination, as the consultation to bring him to Tryal, the Actual bringing him to Tryal, and the Bloody Execution upon the Scaffold ; Our Evidence shall be this, That during the time of the Tryal, the Prisoner at the Bar did Command the Souldiers in *Westminster-Hall*, himself did keep the Entrance into the Court, and when *Bradshaw* did speak to the King and told him he trifled away time, and required his answer

to the charge exhibited in the Name of the Commons of England Assembled in Parliament, and the good People of England ; that a Noble person in the Gallery there cryed out, it was a *Lye*, saying, that above half the Commons disowned it, saying, where are these good people ? *it is a lye, Oliver Cromwel is a Traytor*; this bloody Fellow commanded the Souldiers to shoot her : he did several times command and encourage the Souldiers to cry out *Justice, justice*, and the last day of that horrid Tryal, called by them, *the day of Judgement* ; he likewise commanded them to cry out *Execution, Execution*, and when some of them would not do it, he had the Valour to *Beat* them. My Lords and Gentlemen of the Jury, if we prove any of these particulars to demonstrate unto you that he was Guilty of compassing and imagining the King's Death, it is equal as if we had proved he did Actually cutoff the King's head.

Mr. Bodurdoe, Mr. Nutly, Mr. Harrington,  
Sir Purbach Temple, Mr. Sympson, Mr. Baker,  
Mr. Huncks and Mr. Jeoner Sworn.

Coun. Mr. Symp. tell my Lords and the Jury, who had the command of the Souldiers during the Tryal of the King in *Westminster-Hall*.

Sym. My Lords (as I said before in the Case of Mr. Peters,) Col. Stubberd and Col. Axtel had the command of the Souldiers below Stairs, near that which was called the *High Court of Justice*.

Axtell. I desire to know his Name my Lord ?

Sym. My Name is *Holland Sympson*.

Coun. Did you see him there commanding the Souldiers ?

Sym. There was a kind of a Hubbub in the Court, there was a Lady ( they said it was the Lady *Fairfax* ) who at the Exhibiting of the Charge against the King, said to be in the Name of the Commons and people of England ; She spoke out aloud, and said, *it was a lye*, that not half, not a quarter of the people, *Oliver Commwell* is a Rogue and a Traytor, they called for a Guard, this Gentleman he was called, and

and brought up some Musqueteers, and commanded his Souldiers to Present and give Fire against the Lady, and commanded her to Unmask.

*Axtell.* What Lady was it, I desire to know?

*Sim.* She went by the name of the Lady *Fairfax*, I know not whether it was so or no, it was the common report it was she.

*Cl. Mr. H.* pray tell my Lord what you know of the Prisoner at the Bar.

*Huncks.* My Lord, to say positively any thing of the man touching his command I cannot, but only that morning the King Dyed he came into the Door of the Room where Colonel *Phayre*, Colonel *Hacker*, *Cromwell* and my self were (*Ireton* and *Harrison* lying in bed together in the same Room) and then he stood at the Door half in and half out; I refusing to Sign an Order for Executing the King as *Cromwell* ordered me, and some little cross Language having passed, saith the Prisoner at the Bar, Colonel *Huncks* I am ashamed of you, the Ship is now coming into the Harbour and will you strike Sayle before we come to Anchor. This I appeal to your self: but for crying out, Knock them down, Shoot them I know not who it was, the Officers cryed Justice, and some of the Souldiers, but I profess I know not who it was particularly, but they cryed Justice, and then I fell a trembling, for I was afraid of the King; but these were the words he used to me, will you strike sayle, &c.

*Axtell.* My Lord, I desire to ask him a question.

*L. Ch. Bar.* Ask him what you will.

*Axtell.* If I am not in the right, I hope your Lordships will direct me.

★ *L. Ch. Bar.* Go on.

*Axtell.* Col. *Huncks*, where was it?

*Huncks.* In a little Room in *White hall*, where *Ireton* and *Harrison* lay in bed together.

*Axtell.* Do you know whereabouts?

*Huncks.* I think I can go to the Room; I appeal to your own conscience before all this people.

*Axtell.* By your favour Sir the Room I perceive you know

know not, and truly Sir, *My Lord*, if you please to give me leave, because he appeals to my conscience, I do appeal to the Great God before whom it may be I may be Arraigned to give an account of all my Words, thoughts and Actions; I do not remember that ever I had any converse with this man there, or met him there, or any of that company there that day, he was a stranger to me, but I wish that you (to save your self being in the Warrant for Execution) do not make others a Peace-Offiring to save your self, the Lord that knows my heart, I appeal to him, I appeal to your own conscience because you appeal to my conscience, I never met you nor saw you there.

*Huncks*. Have you done? then give me leave, you say you do not know me, I appeal to the same God, when *Cromwell* took upon him to have the Crown, have not I said, What have you got by being *Jehu*-like, *Lord strike me dead here if it be not true*.

*Axtell*. I will not reflect upon him, but because he hath appealed to my conscience, therefore I speak it, it is known Notoriously how *Jehu*-like you were, when you were one of the chief Guards of his Majesty, one of the Fourty Halberteers that did oppose every person then for the King, had I had time and had not been a close Prisoner as I was, there were Witnesses enough.

*Council*. This after our Evidence is more proper.

*Huncks*. Spare me not Col. *Axtell*.

*L. Ch. Bar*. Take the Old and Antient course, let the Witnesses that are produced for the King be all heard, then give your answer to all of them together.

*Axtell*. My Memory is not very good.

*L. Ch. Bar*. You have Pen, Ink and Paper.

*L. Ch. Bar*. Mr. *Axtell*, is this all that you desire to speak to Col. *Huncks*?

*Axtell*. Yes my Lord.

*L. Ch. Bar*. Have you any other Questions?

*Council*. My Lord we have a few words, he Objects as if Col. *Huncks* were under a danger, he is pardoned.

*Axtell*.

*Axtell.* I desire to ask him upon what account these words were spoke ?

*Huncks.* My Lord it was this ; *Cromwell* having a Commission (which I think I heard read here) Colonel *Hacker* was reading of it, My Lord, *Cromwell* he comes to me and by Vertue of that Commission, he would have me to write a Warrant for Executing the King. I refusing to write that Warrant (upon this which he speaks of that standing at the Door, if God bless me I will search all the Doors at *Whitehall* but I will find it out) I not doing it, I said why should it be offered to me, sayes *Cromwell* thou art a peevish Fellow, *Cromwell* fell a writing, as soon as ever he had done that writing, he gave *Hacker* the pen, what *Hacker* writes I know not, and upon my refusing, this prisoner at the Bar said, *Col. Huncks* I am now ashamed of you, *The Ship is now coming into the Harbour, and will you now strike Sayle before you cast Anchor ?*

*Council.* You observe the course of this evidence, there was a Warrant or Commission directed to three persons; *Hacker, Huncks, and Phaire* for Execution of the King; *Cromwell* demanded of this Gentleman (*Col. Huncks*) that he should sign a Warrant by Vertue of that other Warrant, and this Gentleman refusing it, the Prisoner objects this, that he to save himself doth witness this against the Prisoner, Gentlemen he did refuse the thing, have you any thing to ask *Col. Huncks*?

*Axtell.* He says *Col. Phaire* and *Hacker* were there; I do not doubt but they will be so conscientious to vindicate me from all this Charge.

*L. Ch. Bar.* If it be any thing that tends to your defence, that you will be heard afterwards; but have you any Questions to ask *Col. Huncks* ?

*Axtell.* No more, I know nothing of it, if I were to dye at this Bar presently.

*Council.* Sir. *Purbeck Temple*, pray tell my Lords and the Jury your knowledge of the carriage of this Gentleman touching the Tryal of his Late Majesty.

*Sir P. Tem.* My Lord, being present, and engaged by some persons of Honour, Servants of his late Majesty, to be present when that horrid Murther was acting before this Court of Justice (as they called it) I was present at all the Tryals of the King, and very near him, I heard the King demand from *Bradshaw* by what Authority and Commission they proceeded thus strangely to Try him. Then I heard the Lady *Fairfax* and one *Mrs. Nelson* (my Sister) after the exhibiting of the charge in the Name of the Commons Assembled in Parliament, and the good people of this Kingdom against *Charles Stuart* King of England, I say I heard the said Lady cry out from a Gallery over the Court, *Not half the people; it is false! where are they or their Consents? Oliver Cromwell is a Traitor!* Upon which I heard the Prisoner at the Bar cry out, Down with the Whores, shoot them; which made me take the further notice of him, seeing him in *Westminster-Hall* commanding the Souldiers there, I saw him the most activest person there; and during the time that the King was urging to be heard, he was then laughing, entertaining his Souldiers, scoffing aloud, whilst some of the Souldiers by his suffering, and (I believe) procurement, did fire powder in the palms of their hands, that they did not onely offend his Majesties smell, but enforced him to rise up out of his Chair, and with his hand to turn away the smoke; and after this he turned about to the people and smiled upon them, and those Souldiers that so rudely treated him: Then turning himself to *Bradshaw*, said to him and the Court, There are some sitting here (fixing his Eyes upon some persons near *Bradshaw*) that well knew, that if I would have Forfeited or Betrayed the Liberties and Rights of the People, I need not have come hither, (or words to this effect :) But their Liberties and Rights are dearer and nearer to me than my three Kingdoms; nay than my life it self. Therefore I desire you to hear me, and remember, that I am your lawful King that have done you many Acts of Grace and Favour.

After which this person *Mr. Axtell*, Prisoner at the Bar, commanded his Souldiers to cry out, *Justice*, which the Souldiers not readily obeying of him, I saw him beat four or five of

them with his Cane, until they cried out, (with himself) *Justice, Justice, Execution, Execution*, which made me turn to a Noble Lord, by whom I then stood, and said, Pray my Lord take notice, there is not above 4 or 5 that cry out *Justice, Justice*: I heard also of their spitting in the Kings Face; and I think no bodies sufferings have been so like those of our Saviour Christ Jesus, as his Majesties were. After this, this persons crying *Justice, Justice, Execution, Execution* a second time, the Court proceeded to pass a Sentence; the which his Majesty pressed hard against, and told him, Sir, before you pass that ugly Sentence (which I very well understand you are intended to do,) I desire you to hear me, hear me, hear me, passionately and not affectionately expressing it, which they denying the King, and the noise of *Justice, Justice, Execution, Execution*, being repeated, they proceeded, and read that ugly Sentence of Death: after which his Majesty was immediately hurried away from the Bar into a common Cedan, where he was carried by two common Porters; which Cedan I followed to the middle of King's Street, where I saw the two Porters, in reverence, go bare, till the Souldiers (under the Command of the Prisoner at the Bar) beat them, and would not suffer them to go bare when they carried him. After this the people cried out, What do you carry the King in a common Cedan as they carry such as have the Plague? God deliver your Majesty out of such Enemies hands. In which Street I was forced to leave the sight of his Majesty, occasioned by the injuries and hurts I received in my person from the Souldiers under *Axtel's* command, they carrying him through the Streets shouting in triumph. A short time after I received an importunate command from a Lady of great Honour (a Servant of his Majesties) that I would endeavour to find out where the body of the *Martyr'd King* was, and to give her an account where it then was: Applying my self to *Whitehall*, after two or three score Intreaties, I was denyed; but understanding that money would do it, I gave the persons then under the command of Mr. *Axtell* that then kept it, to shew it me, half a piece, who in a scoffing manner took me by the hand, said, *If thou thinkest there is any sanctity or*

*holiness*



*business in it, look here* ; where I saw the Head of that blessed martyr'd King lie in a Coffin with his Body, which smiled as perfectly as if it had been alive : this is the sad account of the martyr'd King, and this sad horrid Prisoner Mr. *Axtell*.

*Axtell*. My Lord, may I ask that Gentleman some Questions ?

*L. ch. Bar.* Yes, yes.

*Axtell*. My Lord, He seems to say, that I bid the Souldiers cry out for Justice, he doth not at all say I was there in command, but he saith a Lady, by report the Lady *Fairfax*, spake some words, and that I should bid the Souldiers silence her ; truly I desire to know the certainty of the place where I stood.

*Sir P. T.* My Lords and Gentlemen of the Jury, I saw this person standing within a Pike or two's length as I can guess it, (I remember the place within a yard of the ground in *Westminster-Hall*.) I do not say this person sat in the Court as a principal Officer that did then hold his Majesty Prisoner at the Bar ; I did not say, it was a Lady unknown, or reported to be such a one ; but I said it was the Lady *Fairfax*, and my own Sister Mrs. *Nelson*, and he cried Shoot the Whores.

*Axtell*. He seems now to say, I commanded the Guards ; I never was a Guard to his Majesty, or had any thing to do in that business, but it was wholly committed to a company of men I know not of. That Gentleman that spoke I have no acquaintance with him ; I think he did not know me at that time.

*L. ch. Bar.* Have you any thing to ask him ?

*Sir P. T.* My Lord, another passage he puts into my memory, when I did observe a thousand of sad faces, I saw none laughing but your self, as if you had been carousing and entertaining the Souldiers. I do not charge you that you commanded those Halbertiers, but those *Red-coats* ; you were all in *Red* : I saw you cane those 4 or 5 Souldiers I mentioned, till they cried *Justice, Justice* with you ; and that with the powder in the palms of their hands, they forced the King to rise out of his *Chair*, which you were much pleased with and laughed at.

*Axtell.* I say before the Lord, before whom I must be judged again for this, I do deny this whole ~~Obedience~~.

*Griffith Bodurdoe, Esq; sworn. Evidence*

*Gr. Bod.* My Lords and you Gentlemen of the Jury, I was at the time of this sad Tryal in *Westminster-Hall*.

*Axtell.* Your Name Sir, I beseech you ?

*Counsel.* His Name is Mr. *Bodurdoe*.

*Gr. Bod.* I say I was all the time of the King's Tryal in *Westminster-Hall*; I was in a Gallery that I had out of my house where I then lived, just under and besides the House of Commons; and I do remember I saw this Gentleman there; I do think he was then called Lieutenant Colonel *Axtell*, so far as I remember; truly, I have not seen him since before this day, nor have had any reason to have known him, but that I saw him very active in giving commands to the Souldiers there: this Gentleman was keeping the Court, letting some in, and putting others out: he seemed to have command of it; One day (whether it was about some passage or their Presidents Speech I know not,) there was a Lady in the same Gallery where I stood, and some muttering, *It is a lye, not half the people*, or words to this effect. He the now Prisoner at the Bar standing below in the Court within the Bar not far from *Dendy*, with some five or six Souldiers; upon this muttering and disturbance (as he apprehended) to the Court, he called to the Souldiers, saying, Shoot them if they speak one word more; they did also present the muzzles of their Muskets up to the Gallery: My Lord, by this we were very hush; after that immediately within half a quarter of an hour, *Dendy* came to the Gallery from the Court to know who it was that made that disturbance. But the Lady was withdrawn into my Chamber, and did not come out afterwards.

*Axtell.* Where was this Sir?

*L. ch. Bar.* What is it you desire?

*Axtell.* My Lord, where he saw me then?

*L. ch. Bar.* Mr. *Bodurdoe*, you hear the question.

*Mr. Bod.* There was a Gallery which I do believe is yet standing, and the Court was just underneath the Gall

and you were just underneath the Gallery and five or six Souldiers with you.

*Richard Young, sworn.*

*Council.* What do you know of the carriage of the prisoner at the time of the Tryal.

*Young.* I was upon a Scaffold whereby I did see what was done in the Hall; I saw that Lieut. Col. *Axtell* was busie and very active in encouraging the Souldiers to say, let us have Justice against the King.

*Axtell.* I desire to ask Mr. *Young* one question? others say that the word was cry for Justice, this Gentleman is pleased to make some Addition, Let us have *justice against the King.*

*Young.* No not against the King, but I conceived you meant against the King.

*Axtell.* I cry you<sup>r</sup> mercy, you do but conceive so.

*Young.* You were upon the right hand of the Hall almost at the corner near the pavement, it could not be otherwise applyed.

*John Jeonar, sworn.*

*Council.* Speak your knowledge of Col. *Axtell's* carriage at the High Court of Justice.

*Jeonar.* I had the Honour to wait upon the King as a domestic Servant to the time of his Death; that day which was the first day the King was brought to his Tryal, I did wait upon Him among other servants, we stood close to the Bar where the King was, some three or four of us, Col. *Axtell* was upon the right hand of us commanding the Guard to keep things in order when the Court was to be withdrawn (the many circumstances about the Lady *Fairfax* shall be omitted) the *President* commanded the prisoner to be withdrawn, with that Col. *Axtell* steps down before me to draw out his Guard, this I heard him say, Souldiers cry for *Justice, Justice*, I was the next man to him; and upon the last day of the Tryal, he did come down in the same manner, and bid the Souldiers cry out for *Execution, Execution.*

*Axtell.* I do desire a question may be asked of that Gentleman? I must confess I did not know the Gentleman, at that time, though he said he knew me. He seems to say,

that at the first day I encouraged the Souldiers to cry, *Justice*, *Justice*, and the last day, *Execution*, *Execution*; What place was this in Sir?

*Jeon*. I tell you, the King was brought from *Cotton House* through a Guard that you managed of Musquetiers, and with a Guard of Partisans; besides, there was my self and others there: when we came up, we got as close to the Bar as we could; you were passing up and down from above and below: when the Court was dissolved, you stepped down just before to draw your Guard to make ready, and to cry, *Justice*, *Justice*, and the second time, *Execution*, *Execution*, you were very near me, and then you cryed, *Justice*, *Justice*, *Execution*, *Execution*.

*Axtell*. Are you certain; I have heard other men, I confess, accused for this, Some other Officers.

*Jeonar*. I did hear you, I do know you by sight.

*Council*. You know him now to be the same person?

*Jeonar*. Yes.

*Samuel Burden*, sworn.

*Council*. Tell my Lord and the Jury what you know of the carriage of the Prisoner.

*Burden*. My Lords and Gentlemen, I do believe *Col. Axtell* knows me well enough, I was then under his own command at *Whitehall*; there were some Cavaliers then in the Regiment: it was my fortune I came into your Company, I with I never had: you commanded more besides my self to be a Witness against the King, and *Justice Cook* took my Examination: you brought me in, you commanded the Guards that time at *Whitehall* when the King was upon his Tryal.

*Axtell*. What more?

*Burden*. And you commanded *Elisba Axtell* with a file of Souldiers, to take a Boat and go down to the common *Hangman* that liv'd beyond the *Tower*, to execute the King; he is now *Shepard's* Serjeant in *Ireland*.

*Axtell*. My Lord, I desire to ask him a question; he was pleased to say, I desired him to be a Witness.

*Exr*. Yes.

*Axtell*. Where was it?

*Burden*.

*Burden.* In the Court at *Whitehall*.

*Axtell.* My Lord, I have seen the printed List of Witnesses against the King, and in that list you shall find no such Name.

*Burden.* I have been a Prisoner in *Dublin* by your means.

*Axtell.* My Lord, I hope you will take notice of that.

*Council.* *Burden* do you remember any of his commands to *Web*, to draw up in the Banqueting-house?

*Bur.* He commanded *Web* to draw up in the Banqueting-house, during the time of Execution, his own company. I was one of his own company then.

*Coun.* In order to what?

*Bur.* For Execution.

*Axtell.* My Lord, is *Web* here?

*Bur.* He is in *Dublin*.

*Axt.* I wish he were here.

*Edward Cook*, sworn.

*Cook.* And it please your Honour my Lord, the last day of the Tryal of his Majesty, I came into *Westminster-hall*, coming where the Court was, I did see Col. *Axtell* the Prisoner at the Bar there with some Musquetiers.

*Coun.* What day was this?

*Cook.* The last day of his Majesties Tryal.

*L. ch. Bar.* Go on Sir.

*Cook.* Standing there a little while, his Majesty came guarded with some Halberteers, when he came by the Souldiers that stood with Col. *Axtell*, his Majesty bowed, and afterwards put off his Hat, and went up to the Court; I could not know what *Bradshaw* said to him, I stood below, I heard him say, he was brought by the consent of the Commons and people of England: there stood a Lady above in a Gallery crying out, it is a lye, where are the people, or their consents; *Cromwel* is a Traytor: whereupon Col. *Axtell* standing by, saith he, what Drab is that that disturbs the Court; come down or I will fetch you down.

*Mr. Nelson*, sworn.

*Coun.* Tell my Lords and Gentlemen of the Jury, touching the Discourse between you and the Prisoner at the Bar in *Dublin*.

*Nelson.* My Lords and Gentlemen of the Jury, upon a Discourse with the prisoner at the Bar in *Dublin* 5 or 6 years since, upon the platform in that Castle we discoursed of the late Kings, having had several reports, I desired to know of him who it was that Executed the King, thinking he might inform me, he was pleased to tell me this, faith he, the persons that were employed in that service, you know them as well as I do; truly Sir not I, said I, I saw them in Vizards but not their Visage as I know of, yes faith he you do know them, it is true faith he, my self and others were employed in that affair in order to the Execution; but there were several persons came and offered themselves out of a kind of Zeal to do the thing, but we did not think it proper to employ persons whom we did not know, but we made choice of a couple of Stout persons, pray let me hear their Names said I, faith he it was *Henlet* and *Walker*, I desired to know their reward, Truly faith he I do not know whether 30*l.* a piece, or between them; I said it was a small reward for a work of that Nature, truly faith he that was all.

*Axt.* You named one man, I did not hear the other named,

*Nelson.* I named *Henlet* and *Walker*, we was one that managed the Execution, he told me so, and it pleased you Sir.

*Axtell.* He is pleased to say that in *Ireland* there was such conference, was any body by? *Nelson.* No Sir.

*Axt.* Did I name any body to you?

*Nel.* You named those two persons.

*Axt.* Certainly I must invent them then, for I had no more knowledg of them then any one here.

*Nel.* You told me you were one of them that had the managing of that Affair.

*Counsel.* My Lord, we have done with our Evidence, those particulars that were first opened to you, have rendred the prisoner much a blacker person then we thought; we leave him to his defence.

*Axt.* May it please your Lordships, in the first place because I am ignorant in the Laws, I desire to know upon what Statute this indictment is grounded.

*L. ch. B.* It is grounded upon the statute of the 25th, of *Edward* the Third.

*Axt,*

*Axt.* My Lords, I must acknowledg my ignorance of the Laws, being a thing I never studied, nor have the knowledg of, but I have heard it is the duty of your Lordships and the Judges to be of Counsel for the Prisoner in things wherein he is ignorant in matters of law, to make his just defence; and therefore my Lord the Indictment it self being matter of law, if your Lordships please not to grant me Counsel to speak to matters of law, I humbly pray that your Lordships will be pleased that for want of knowledg, formalities, punctilloes, and niceties of the Law, I might not undo my self: I have heard by a learned Judg, that though the Judg be of Counsel to the King, yet by his Oath he is also to be Counsellor to the Prisoner, and stands as a Mediator between the King and Prisoner, and therefore my Lord I shall beg that humble favour, that wherein I shall fall short to make the best improvement of my Plea in matter of law, that your Lordships will help me, and not take advantages against me, as to the niceties, formalities, and punctilloes of the Law; and my Lord this is a resemblance of that Great day where Christ will be Judg, and will judg the secrets of all hearts, and of all words, and of all persons, and by him all Actions are weighed, knows all our hearts whether there be malice, or how it stands in the frame of each heart before him in this place, and therefore I hope there will be nothing by pre-judging, or any thing by precluding to be so black a person as it seemed to be said against me. *My Lords*, I must shorten the time and come to speak as to the Authority.

*L. Ch. Bar.* As to what Sir,

*Axt.* I speak as to the Authority by which or under which I acted, I humbly conceive, my Lord, under favour, that I am not within the compass of that Statute of the 25<sup>th</sup> of *Edward the Third*, for that questionless must intend private persons, *Counselling, Compassing, or Imagining the death of the King*. But you know, my Lords, the War was first stated by the Lords and Commons the Parliament of *England*, and by vertue of their Authority was forced to be raised, and they pretended by law that the right of the *Militia* was in them, and



and your Lordships will remember in several Declarations and Acts that was mutually exchanged between his Majesty and Parliament, and, my Lord, that was the Authority the Lords and Commons assembled in Parliament, raised a Force, and made the Earl of *Essex* General, and after him the Earl of *Manchester*, of the Eastern Association, and after that Sir *Tho. Fairfax* Lord General of the Forces; by this Authority I acted, and this Authority I humbly conceive to be legal, because this Parliament was called by the Kings Writ, chosen by the People, and passed a Bill they should not be dissolved without their own consents, that the Parliament was in being when the Tryal was, and a question whether yet legally Dissolved.

In the fourth place they were not only owned and obeyed at home but abroad, to be the chief Authority of the Nation, and also owned by Foreign States and Kingdoms, sent Ambassadors to that purpose, under them did all the Judges of the Land Act, who ought to be the Eye of the Land and the very light of the People, to Guide them in their right Actions, and I remember the Judges upon Tryal (I have read it of High Treason,) *Judge Thorp, Nicholas* and *Fermin* have declared it publickly, That it was a lawful justifiable thing by the Law of the Land to obey the Parliament of *England*. My Lord, it further appears, as to their Authority over the People, of this Nation petitioning them as the supreme and lawful Authority: and, *My Lords*, as I have heard it hath been objected, that the Houses of Lords and Commons could make no Act. Truly, my Lord, if you will not allow them to be Acts, though they intitle them so, call them so, and obeyed as so by the Judges, Ministers, and Officers of State, and by all other persons in the Nation, yet I hope they cannot be denied to be Orders of Parliament; and were they no more but Orders, yet were they sufficient, as I humbly conceive, to bear out such as acted thereby. And my Lord, the Parliament thus constituted, and having made their Generals, he by their Authority did constitute and appoint me to be an Inferior Officer in the Army, serving them in the quarters of the Parliament, and under and within their power;

er; and what I have done, my Lord, it hath been done only as a Souldier, deriving my power from the General, he had his power from the Fountain, to wit, the Lords and Commons; and, my Lord, this being done, as hath been said by several, that I was there, and had command at *Westminster-Hall*; truly, my Lord, if the Parliament command the General, and the General the inferiour Officers, I am bound by my Commission, according to the Laws and Customs of War to be where the Regiment is; I came not thither voluntarily, but by command of the General, who had a Commission (as I said before) from the Parliament. I was no Counsellor, no Contriver, I was no Parliament-man, none of the Judges, none that Sentenced, Signed, none that had any hand in the Execution, onely that which is charged is that I was an Officer in the Army, if that be so great a crime, I conceive I am no more guilty than the Earl of *Effex*, *Fairfax*, or the Lord of *Manchester*.

*Judg Mallet*. You are not charged as you were an Officer of the Army.

*Axtell*. My Lords, That is the main thing they do insift upon: my Lord, I am no more guilty than his Excellency the Lord General *Monck*, who Acted by the same Authority, and all the People in the three Nations; and my Lord, I do humbly suppose if the Authority had been only an Authority in Fact and not Right, yet those that Acted under them, ought not to be questioned; but if the Authority commanded whatsoever offence they committed, especially that that guided me was no less than the declared Judgment of the Lords and Commons sitting in Parliament; they declared that was their right as to the *Militia*, and having explained several Statutes of *Henry* the 7th, wherein the King having entered-changed Declarations with the Parliament, the Parliament comes to make an Explanation on that Statute; and, my Lord it is in *Folio* 280. wherein they do positively expound it, and declare it as their allowed Judgment. To clear up all scruples to all that should take up Arms for them; saith the *Parliament* there as to the Statute of 11. of *Henry* the 7th. Chapter the first, which is printed at large, comes there to explain

explain it in general, and comes here, *Folio 281.* and gives this Judgment; *It is not, say they, agreeable to Reason or Conscience that any ones duty should be known, if the Judgment of the High Court of Parliament be not a Rule or Guide to them.* In the next place, this is the next Guidance, Rule, and Judgment of *Parliament*, upon the Exposition of this Statute and as they have said in several places (was it not too much to take up your Lordships time) they are the proper *Judges and Expounders of the Laws.* The High Court of *Parliament* have taken upon them to expound the Law, and said, that we Lawyers will give the meaning of the Text contrary to what they have expounded the meaning under their hands in the same *Declaration* his Majesty is pleased to quit that Statute upon which I stand Indicted, the 25th. of *Edward the Third*, where they do my Lord expound that very Statute in the *Declaration* made in 1643. *Folio 722.* I come to the declared Judgment, wherein they did positively say, that the persons that do Act under their Authority, ought not to be questioned as persons Guilty *Folio 727.* that is the Exposition that the Lords and Commons Assembled in *Parliament* doth make upon the statute.

*Counsel.* My Lord, this is an Argumentation of Discourse in justification of his proceedings, we desire to know what he will answer as to the Plea.

*Axtell.* My Lords, I have this further to say, that if a House of Commons Assembled in *Parliament* may be Guilty of Treason; (for the truth is, if I Acted Treason that Acted under the Authority of the Lords and Commons in *Parliament*, and of the Commons in *Parliament*) then doubtless they must begin the Treason: if the House of Commons, who are the collective body and Representation of the Nation, all the people of *England*, who chose them, are guilty too; and then where will there be a Jury to try this? concerning the Commons alone, I have been over ruled.

*L. ch. Bar.* If you have any thing to say to the Lords and Commons, answer to your charge; your charge is nothing of the Lords and Commons; but what you Acted when the house was broke and Forced.

*Comm.* You cannot but know that there is nothing charged against you, for which you can so much as pretend an Authority of the Lords and Commons, you know before you could do this Horrid Murther, you were the persons that destroyed the Lords and Commons both; indeed you Ravel in a business, and to make people gaze upon you without any Ground.

*Axt.* I am upon my life, I hope you will hear me patiently.

*L. ch. Bar.* God forbid but we should.

*Axt.* I do desire to assert my Authority; if any thing was done upon the House of Lords and Commons, I do not come here to justify their Actions, I was not concerned in it. My next Plea is this; that if a House of Commons can be charged Guilty of *High Treason* as a community, the distributive Body must needs be Guilty.

*Court.* If there should have been 20 or 40 men come out of the House of Commons, and should Murther a man, they must answer for that; it is not the community that can do such an Act of Treason: these persons that you call a House of Commons, there was but 26 of them, and these must be the people; this is the state of the case: and when you have thrust out thrice the number of those remaining, only those can serve your turn.

*L. Annesly. Mr. Axtell.* I am very sorry to see you in that place and it troubles me as much to hear you vent that for an Authority which you know your self was no Authority; you would now for your defence for life (and it is reason you should make as full a defence for life as you can) you would shelter your self under that Authority, which I am sorry I must say were one of the greatest Violators of: you cannot forget how near a close of this bloody War by the mercy of God, this Nation was when the Army interposed, whose Trade it was to live by War, when they had felt so much of the sweet of War they would not suffer the people to enjoy peace, though the Lords and Representatives in Parliament had agreed to it; A Treaty was begun, terms of peace propounded and agreed to, this you cannot forget, and will have

have no need of Notes or Books to help your Memory: when the people Groaned under the miseries of War, and thirsted after Peace, then came up the Army, who were servants to the Parliament till that time, taking upon them the Authority (you cannot forget that, your self was one of the number that came to offer accusations against the majority of the Commons House, calling them Rotten Members;) the House of Lords was not then suffered to sit, they would not joyn in that Ordinance that was preparing for the Tryal of the King; when the Lords had refused, they were no longer fit to be Lords neither; then comes in a new Authority which we never heard of before; a remnant of the House of Commons joyning with the Army, that had driven away the greatest part of the House of Commons; (for in all Assemblies and Courts the major part must determine, or no determination) after this course was taken, then is an Act set on foot, they take upon them by Votes of their own to be the Parliament of *England*, that the supreme power of the Nation is in the Representatives of the people; who were they? those few only that remained almost all the Cities, Counties and Burroughs of *England* had none left to represent them, they were driven away by Force, then was this Act of Parliament (such an Act as was never heard of before) set on foot and passed as an Act by a few of the House of Commons, if you can plead this for your defence, this is the Act that you must shelter under. But you know the Lords and Commons had Unanimously resolved for peace, and so agree with the King: if this Act will be any defence, you may plead it to the full; and this is all you have to say; therefore go upon no Forreign matter.

*Axt.* If it please your Lordship, that worthy Lord that spoke last is pleased to say, that I was one of the persons that did accuse some of those Members of Parliament; truly my Lord, I never did come to the Commons Bar but once, presenting a petition; and for my hand either in charging any of the Members, or Secluding any of them, I never had any hand in that matter, this is all to that part. Next I Humbly conceive here I must ground my bottome, and if I pe-

nish, I perish by a Judgement in a Parliament; My Commission that did Authorize me to obey my General, was given me when the Lords and Commons sate in Parliament, I had no other Commission then this: my Lord *Fairfax* commanded the Army after the Kings Death by the like Commission, I did but my duty in going to my Regiment, the General saith, go to such a place, stay there, if I refuse, by the law of War I Dye, if I obey I am in danger likewise; I say my Commission was given me by the Lords and Commons, and therefore I hope my Lord that what I have said and offered in that particular, is not Truthless but of Weight.

*Court.* The Effect of your Commission is only to make you an Officer.

*Axtell.* My Commission bears date the 27th. of *March* 1648. Ten months before the Kings Death; we had no other Commissions, therefore I humbly conceive the question will be this in point of law, and I humbly desire it may be Truly and Fairly stated by your Lordship and these Honourable Judges, that whether a man being guided by the Judgement of the Lords and Commons Assembled in Parliament, and having declared their Judgments and Exposition of that Statute of the 25th. of *Edward* the Third, and Acting only by that Judgment of Parliament and under their Authority can be questioned for Treason. That my Lord is a question that I do humbly think is a point in law, and that you will please fairly and truly to state it, whether I am within the compass of that Statute whereupon I am indicted.

*Counsel,* My Lord, We do not charge him with any thing that he did Act under the colour of his Commission, or with any thing he did before that, but that which we charge him with are the Acts that he did at the Tryal of the King, shew us your Commission from the Lords and Commons Assembled in Parliament for Tryal and Execution of the King, you say something; we do not charge him for any thing done by Vertue of that Commission, but with those violent Acts that he did in encouraging the Souldiers to cry *Justice, Justice, Execution, Execution*, and all those other Violent Actions of his own malicious heart against the King. We humbly

bly beseech you he may answer to that which is the charge against him, and that is the *Compassing and Imagining the Death of the late King*, and his declaring that by those overtacts that we have proved. My Lords, we desire that the Prisoner at the Bar may remember that he is not Indicted for levying War against the King, if so, then that Sir which you offer might be given as a Plea, and we should have spoken to it; but you are Indicted for *Compassing and Imagining the Death of the King*; and that which we have given in Evidence were the subsequent overtacts to prove the same.

*Axtell*. I hope you will not think it much to give me some more freedom for my own defence for life; My Lord, I must needs say though there was a force on the Parliament, I am not to justify it; I was no Lawyer, no Statesman, no Councillor, but a Souldier; and if the General who had a Commission from the Lords and Commons, and that some years before and after the King's Death, be not guilty of Treason, what I did was by command from my General; and though I am charged with being in Arms in *Westminster-hall*, and at such and such a place, yet it was not a Voluntary Act; for I was bound to obey my General; I do humbly pray that I may have your Lordships Judgment in this point; I must say it was from the sense of their exposition of the Law and of the Statutes, and from the Authority that every one took up Arms for and served them, and obeyed either the one General or the other; I say it was under this very Authority, and this must needs acquit me from all the guilt that is laid upon me.

*L. ch. Bar.* You put your self upon the Judgment of the Court upon this which you call a point in Law. First, it is manifest that there is no excuse at all for Treason, no man by his Commission can warrant the doing of an Act which is Treason: you must take notice of the Authority whether it be good or no, your Commission was not to put the King to Death, but on the contrary, to preserve the Kings life. The Lords and Commons what they did, we do not meddle with the Reason and Ground of what they did was the preservation of the Kings Person, as well as the maintenance of the



Laws and Liberties of this Nation, they made Protestations, Declarations, and Oaths for the preservation of the King's Person; and you could not but take notice of those things : Now whereas you go about to shroud your self under the Lord *Fairfax*, he had no such Power, and therefore you can challenge no more then he had : and to what you say concerning the Judgment of the Parliament, there will be a great deal of difference between a particular Case, and a Declaration of Lords and Commons; there is nothing you have said that hath any thing of Force, and God forbid you should make use of it; But I must tell you, you could not but notoriously know all those Transactions that were in the Army, what the Army had done, that they came up with Swords in their Hands, and turn'd out whom they would ; you saw what the Lords and Commons had done, that the Treaty was ready for his Birth; And then you come up with your Mermidons, with Force and Arms and Exclude the greatest part of the Members, and then the Lords were laid aside : it is true, the Lords were not wholly dissolved, but they would not suffer them to Sit nor Act at all, and this was apparent to the Nation. If men under colour and pretence of such things, Namely, that a few persons (for so they were) but an Eighth part of the House of Commons permitted to remain, and of that Eighth part (which was but 46 in the whole) there were but 26 that Voted that Act which you say you obeyed : but you say you obeyed the General : you were not to obey the General in this Case ; for the Facts that you have committed, are not charged as Acts of War ; you are not charged for bringing the Souldiers in, but for those Violent Actions that you were guilty of there ; you made the Souldiers cry out, *Justice, Justice, Execution, Execution*, you sent officiously for a *Hang-man* to come down to you ; your Commission gave you no power for this, the Death of the King you know how it was designed, you know the Act for the bringing in of that Commission (as they call'd it) to sit in justice was after the House of Commons was reduced to a very small Number, and some of those dissenting too, what you did Act under that Authority, if you can justify it, in the Name of God say so, but do not Engage the Nation in those

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thing

things which they abhorred, and by the mercy of God are laid asleep.

*Mr. Justice Foster.* You begin at the wrong End, you ought as all men ought to do First, to answer the matter of Fact, and not to put in these long dilatory Pleas till you have answered the matter of Fact, whether those things charged on you be true or not; then if you have any thing further to say for your self by way of excuse, it will be the time to speak and not before.

*Axt.* May it please your Lordships, I humbly conceive I am upon that method to the first part of the witness, they accuse me for commanding my Souldiers in *Westminster-hall*, then I must prove my Authority, which I have been about to do, and declared the Judgment of Parliament.

*L. ch. B.* The Court have heard you with a great deal of patience, and that which is not at all to the business.

*Axtell.* I only refer this as to the Authority (I humbly conceive you will give me leave to insist upon this, and how far I may improve it for my own defence) here is the Commission by which my Lord *Fairfax* acted and that after the King's Death, and I acted by the same Authority he did, I had not been at *Westminster-hall* but on the command of the General.

*Court.* Doth that Commission Authorize you to cry *Justice, Justice?* and to look up and down to get Witnesses against the King, is that in your Commission?

*Axt.* I am to serve and obey all my Superior Officers, that is my Commission; if I do not, I die by the Law of War.

*Court.* You are to obey them in their just commands, all unjust commands are invalid. If our Superiors should command us to undue and irregular things (much more if to the committing of Treason) we are in each Case to make use of our passive not active Obedience.

*Axt.* Under Favour, it is not proved, that I did either *Compass* or *Imagine the King's Death*, that is matter of Fact.

*Court.* Let us try that.

*Axt.* My Lord, I did nothing but as a meer Souldier, I had Authority from the General, I would leave this before your Lordships and the Jury, that what I have done hath been by Authority of the General.

*L. Hollis*

*L. Hollis.* Sir a word to you. If you could satisfie the Court that you had received a Commission from the General to do those things with which you stand charged it were something; then were it proper for you to plead it, and the Court to judge. Pray take this along with you, the General gave you no such command, what you are charged with in the Indictment, is *for Compassing and Imagining the Death of the King*, and that by such and such overt acts, as making your Souldiers cry out *Justice and Execution*, for being active and forward in sending for the Executioner, and such other Acts, prove these are in your Commission, and you say something: I am sure, you cannot be ignorant, that That very Authority that you do now urge to give life and power to your Actions, that you destroyed it, laid it in the dust, acted contrary to it several ways when the Parliament protested against fetching the King from *Holmby* as they did, when they went on proceeding in the way of peace, then came you up to the Bar (I think you your self) and charged some of the Members; first 11 as rotten Members, and these Men were forced away; this you know your General had no Commission to do, and this you know was a Violation of that Power that gave our General the Commission. After that when the Treaty was brought on in the *Isle of Wight*, when there was great hopes of peace, then you knew the King was hurried thence by Force, which the Parliament protested against. After that when both the House of Commons and Lords came to consider of one particular that passed, they resolved that it was sufficient ground to proceed on for the settlement of peace; then did you fall upon these Houses and tear them in pieces, and throwing out above 200, suffering only about 40 to remain, and they were glad to send for one Member out of Prison to make up a House. That which you say of the Supreme Authority, and that by Vertue of which you did Act; it shews that you did not at all go by any Authority, but you followed your own Lusts; and therefore donot sew these Fig-leaves together, which will stand you in no stead; if you would apply your self to answer that which you were charged with, it were something.

*Ans.* I do desire to have no more interruptions then is me

n making my own Defence. My Lord, here are many things by way of motive urged to the Jury, which is not within the Charge, I desire I may have that fair play, *that nothing may be urg'd but what is in the charge.*

*L. Ch. Bar.* You give the occasion Mr. *Axtell*, keep to the matter, and you shall not be interrupted.

*Lord Hollis.* I shall be very sorry to urge any thing against you which doth not necessarily follow; for what you say touching your Authority, I shall shew you have no Authority.

*Axtell.* My Lord, I have the same Commission as the General; what I did was not of mine own head: I had a Command. As for all that hath been charged against me, I shall say this; I was none of the Court, I did not fetch the King from the *Isle of Wight*, nor advised, compassed, or imagined his Death, or sentenced him to Death, or signed the Warrant for his Execution, or Executed Him; I am none of them. My Lords, and therefore whoever did make any breach upon the House of Commons, they were Grandees, persons of a greater Quality; I was an inferior Officer, I was never at the House Bar, but upon presenting one Petition to the Parliament from the Army. I shall now come to speak to the Evidence which hath been given particularly against me; and the first, my Lord, is Mr. *Simpson*, he saith, I had the Commands of the Guards at *Westminster-Hall*. My Lords, I have told you already, shewn you by what Authority I came thither, and that I ought not to refuse; if I had, according to the laws of War, I must have suffer'd death; and that is all as to Mr. *Simpson*, only that a Lady (he knows not who) spake something there.

*L. Ch. Bar.* He saith he heard you bid the Souldiers give fire against the Lady.

*Axt.* My Lord, I must say, if there was any Lady that did speak, who she was I know no more than the least child here: but my Lord, to silence a Lady, I suppose is no Treason. If a Lady will talk impertinently, it is no Treason to bid her hold her tongue.

*L. Ch. Bar.* A Lady was speaking pertinently enough, when she heard *Bradshaw* say to the King, such a Charge is exhibit-

ed a charge of High Treason against Him, in the Name of the Commons assembled in Parliament, and the good People of England; she said, *That was a lye, not half, nor a quarter of the people of England, That Oliver Cromwel was a Traytor*; Then you took upon you to command Souldiers to fire at her; and accordingly they levelled the muzzles of their Musquets towards her.

*Axtell.* My Lord, as to that particular concerning *Oliver Cromwell*, or any other words concerning the Court, I understand them not; but if any interruption was made, to preserve the peace, to desire a Woman to hold her tongue is no Treason. To the next particular wherein *Col. Huncks* saith, at a door at a certain lodging where *Ireton* and *Harrison* were in Bed together, he saith, that upon his refusal to sign the Warrant for executing the King, I said to him, *Col. Huncks, I am ashamed of you, the Ship is now coming into Harbour, and will you strike Sayle before we come to Anchor?* truly my Lord I think all that amounts to nothing, if it were so, which I deny it; for to bring the Ship into Harbor, what is that? there is no person named, Fact named, nor Design named? and I appeal to my conscience, I remember not the time, place, person, or words; and I can call for *Col. Phayre* and *Col. Hacker*, who were there; for I desire things may appear right, I desire they two persons may be called for their Evidence in that point.

*L. ch. Bar.* They both are in the same condition, *Col. Hacker* in the prison behind you, *Col. Phayre*, in the Tower; *Mr. Axtell*, you know the strength of one Affirmative witness, I saw such a man, and heard such a man say, &c. is more then if twenty should witness they stood by, but did not see him, or hear him speak.

*Axt.* My Lord, he saith only this, I saw you at the door going unto *Ireton's* chamber, and said, *will you strike Sayl. &c.* Truly my Lord he doth not say, what, or how, or any thing I meant; there must be according to *Sir Edward Cook's* 7th Book of his *Institutes* that Oracle of the Law: he saith, *That Evidence ought to be as clear as the Sun at noon day*: All that you can say is this; it must be a wide Inference, a large Inference, I conceive there is nothing in these two witnesses, and if the two Prisoners were here, they would clear me in this.

*L. ch. Bar.* If by Law you could have had them, you should; but I fear if they could be admitted, they would not be to your advantage.

*Axtell.* Then my Lord, in the next place *Col. Temple* is pleased to say, that the Lady *Fairfax* saying something against the Court (which in truth as I said before, I know not who it was, or what the words were) he saith, I bid Fire against them, I did nothing but what I was commanded upon pain of Death to preserve peace, and in pursuance of that command from the superior Officers of the Army? silence was required, and that was all that was done. I suppose where a man is commanded to keep silence, as the Sheriff is required to keep all at peace in a Court; if he restrain a person that will not be quiet, it is not Treason in him, nor in me in this particular. My Lord, in the next place *Mr. Temple* is pleased to say, that I stood upon the pavement laughing, while others sighed; Truly my Lord, I know not whether I saw the Gentleman or no; certainly smiling is no Treason, if I did so, though I believe I had as great a sense that day as many other persons there; this is the sum of that he saith, only he further adds that I bid the Souldiers cry for *Justice*, truly my Lord——

*L. ch. Bar.* Because it may be your Notes are short, I will acquaint you there was a little more in it, he said you bid the Souldiers cry out, *Justice, Justice*; and they coming not very readily to it, you struck some of them till they with your self cryed out *Justice, Justice*, till they with your self did it.

*Axt.* My Lord, To that I answer, that in the Hall there was some kind of people did set up a crying some kind of words, and may be some of the Souldiers might cry so too, I might command them to hold their Tongues, and to say, *Please teach you to cry Justice*, and so the Gentleman standing by, might believe I was the person that bid them do it: Truly my Lord, is this all that the Gentleman says, which I humbly conceive is nothing, because he does not say against any person; and therefore my Lord, I do hold to that Maxim in the Law, as *Sir Edward Cooke* holds (that man of great parts of learning and knowledg) *That in matters of Treason wherein a man is the most highliest concern'd in his life and posterity, there*  
ought

ought not to be construed against him Inferences or presumptions, or strains of wit; there is no more in this, and this is all that I say in this particular. In the next place, Mr. Temple is pleased to say, that after the Court had sentenced his Majesty, he was hurried away in a *Cedan*: Truly, whether he was or not I know not, There was a Guard of Halbertiers, whereof Col. *Huncks* was one, and several others as I have heard; they were Select Guards of his Majesty, Guarding him from St. *Jame's* to other places: how he came to be hurried I know not, it was not by me: and whereas he say's, during the whole Tryal, I was there, truly I think I was there by command of my General by Authority of the Lords and Commons.

*L. ch. Bar.* You speak this, that the Jury may understand you did it by command of your General. Do you mean by express command?

*Axt.* I did not move a day but by special command.

*L. ch. Bar.* By whom!

*Axtell.* The Lord *Fairfax* gave his Orders every morning to his Adjutant General, or Major General, and they issued them out to such and such persons as he appoints.

*L. ch. Bar.* Who gave these Orders out?

*Axt.* The Lord *Fairfax*, we did all under him.

*L. ch. Bar.* You had not the order immediately from him.

*Axtell.* The Major General had.

*L. ch. Bar.* What Major General gave you that Order?

*Axtell.* There was *Cromwell* and *Ireton*.

*L. ch. Bar.* The Lord *Fairfax* gave you no immediate Commission.

*Axtell.* He have my Superior Officers.

*L. ch. Bar.* How do you know that?

*Axtell.* My Lord, because they told me so, it was by his command.

*L. ch. B.* The question is now understood.

*Axt.* The next person that speaks is Mr. *Bodurdoe*; and he says, that I commanded the Souldiers at the King's Tryal, and that a Lady that was speaking, was commanded silence, to this purpose; Truly (my Lord) this is but the same as before.

*L. ch. Bar.* You said *Shoot* too.



*Axt.* No (my Lord) I said not any such word, or any thing like it, I heard there was an Officer went up and intreated her to be silent, I say it is the same with the former it is no Treason to desire one to be silent. My Lord, the next Witness that speaks in Evidence against me is Mr. *Young*; he says this, I bid the Souldiers cry for *justice*: it is very like that person as well as Mr. *Temple* might see me in the croud speaking to make the Souldiers quiet, I might repeat the words that the people said, repeat the word *justice*, or some such word, as the peoples words.

*L. Ch. Bar.* Remember how he repeats them, he saw you active in setting on the Souldiers to cry *justice*.

*Axt.* If I have taken them right, one says he heard me say such words as *justice*, and that he saw me strike two or three Souldiers; if in the Tumult such a word should be started, I hearing of them, I might strike those Souldiers that said, *justice, justice*, and might repeat the words, *I'll give you justice*, and so strike them, that is a good Evidence that it might be a repetition of their words, and not any of mine own: They both speak as to the word *justice*, but here was not justice mentioned to any person; I might repeat their own words, and chastise them for those words; besides this, (though I do not say the word was spoken by me,) if the word *justice* had been spoken, my Lord I hope it is no Treason to say, desire justice, *it is Gods great Attribute, it is God's Ordinance, and that can be no Treason*. I have read in Law Books, (though but lately) and I cannot find that the word Justice should be made Treason, then there is no person to whom that adjunct doth belong. The next Evidence, my Lord, is Capt. *Jeonar*, he saith, I commanded a Guard; truly several Regiments took their turns as they were commanded by the General, and I as an inferior Officer was there, but that is no more than what was said before, it was done by the Authority of the General; if I had not done it, I had died by the Law of War: He saith, there was a cry for Justice. I can say nothing more than I have formerly said, it may be in the Tumult the Souldiers might say so, and I chastising of them, and repeating that in my chastisement, they might think they were mine own words.

*L. Ch.*

*L. Ch. Bar. Mr. Axtell*, I would help your memory, he swears the last day you encouraged the Souldiers to cry *Execution, Execution*.

*Axt.* For that particular I am coming to it (*I thank your Lordship for helping me*) My Lord, for that of Execution, truly, I cannot say whether I was there that day or no; one day I was commanded to be there with some Companies in *Westminster-Hall*, but whether I was there any more than that one time, is the question: Admit I was there that day, I was never there but when I was commanded; when the Colonel that commanded the Regiment was there, I as an inferior Officer ought to be there: I was there by a special Order, and not by a voluntary Act of mine own, and so it cannot be *Compassing the death of the King*. For to the word *Execution*, what can be the sense of this word? *Execution* is a single word, those people that started the word *justice*, might put it in the heads of the Souldiers, which I might strike to command silence; they likewise might upon the same account cry out *Execution*, and so to hinder all Tumults and Hubbubs and the like in the place, I might repeat their words in correcting of them for it, I might say, *I'll justice you, I'll execution you*: But my Lord, this word *Execution of justice*, it is a glorious word, not that there can be an inference that what they did I should say was Justice, or to approve of any thing that they did, but only in general *Execution of justice*, which my Lord, relates not to any person, possibly the rude people might be speaking (as hath been said before) in that manner, and the Souldiers might take it up, and I might reprove them and make use of their own words by word of repetition *I will justice you, I will Execution you*.

My Lord, in the next place, I do observe to speak that of *Mr. Burden*, he did observe to your Lordships and the Jury, my Country-men my Brethren, with whom are the issues of life and death, for whose life they must answer before the Lord as to Righteousness, Judgment, and Equity; I say my Lord as to *Mr. Burden*, he tells you, that for my sake, he was imprisoned; saith he, *I have suffered much by him*; and speaks it with much indignation of spirit, I have suffered and been imprisoned

imprisoned by him, and afterwards he comes to speak his Evidence; how much his Evidence may be of Force, I desire my Lord, the Jury may consider of that; and then he comes and saith, I commanded a Guard at the Banqueting-house in *Whitehall*. Truly my Lord, the Lord *Fairfax* commanded a Regiment to quarter there, and I as an inferior Officer might be there: in the next place, my Lord, he saith, I sent *Alisa Axtell* to fetch the Hang-man; Truly my Lord, I wonder this person is come from *Ireland*, (if this were so) the Authority there would not send that person with his great Evidence as well as this person; he may as well charge any person with this as me: It is evident, *Ireton*, *Harrison* and *Cromwell*, they did all amongst themselves; I never was with them, amongst them, received no command from them, nor obeyed them; nor did any thing but what I had command for from the General, who by the Law, I was bound to obey as a Souldier. I shall only observe one thing more; this person being so long a Prisoner, to Extricate himself out of his imprisonment and chains, poor man! he may say more than is true. I wonder he should say I sent for the Executioner, I never knew of any circumstance touching consultation about his Death, or took him Prisoner. When they sent to me to be one of his Guard, I never would go; I humbly conceive there is nothing sticks upon me in this, considering the circumstances and the words of the person that spoke them.

My Lord, the next person that speaks against me, is Mr. *Cooke*, and he saith he heard me say, *Thrust that Lady down that made a disturbance in the Court*, or words to that purpose: it is probable there might be a desire of silence. The next Evidence is Lt. Col. *Nelson*, he saith that upon a Discourse—

*L. Ch. Bar.* I would put you in remembrance, lest you should forget what Sir. *Purbeck Temple* said, That by leave of persons under your command, he saw the body of the King. It is only a Circumstance.

*Axtell.* I have heard there were Chirurgions, Physicians and Halberteers, appointed by whom I know not, they had the care of such things, and had the keeping of him, he was locked up by them, no body could come in but by them; I never

never had a Key; possibly Col. *Temple* might come to me, quartering there, and desire me to speak to some persons that had the charge of it to let him in, whether I did or no I cannot remember, but if it were so, I hope it will not amount to Treason. The last thing given in Evidence against me is Mr. *Nelson*, he saith that upon some discourse between us, he was asking what person cut off the Kings head, and that I should say *Hewlet*, &c. Truly my Lord I was never privy, and I appeal to Mr. *Rushworth* if he were here, who was Secretary, if ever he saw me in any Counsel, to advise, or Act, or any thing in that kind in relation to the Kings Tryal, Sentence or Execution; for me to know the person that was employed about the Execution, it is strange when (as I said before) they did all within themselves. I had no knowledg thereof, and meddled not with any thing, but within my own Sphear, as a Soldier under my L. *Fairfax*, by Authority of Parliament. For naming of any person; truly my Lord it would be a wonder to me that I should name any person, to go to do any person that wrong and injury to say he was the person, I must invent it, for I knew nothing of it. But by common fame up and down the City, it was said to be another person, but who it was I cannot say my Lord, but to all this that hath been said against me, there are but two things upon two Witnesses that are placed upon me, the First my Lord here is two Witnesses for crying *Justice*, and *Execution*.

*L. Ch. Bar.* I think you have more than two to those words.

*Axtell.* Not for both together.

*L. Ch. Bar.* No but several for *Justice*.

*Axtell.* There is three to that, I shall only say this to your Lordship, and this Jury in whose hand this life of mine is, and is committed to them either to acquit or condemn me, and God knows the hearts of all men, and my innocency and integrity, I shall say nothing to the Witnesses, it is a day of Temptation; and I desire the Jury my Countrymen, my fellow Citizens, my Brethren, that they would well consider of it, the word, *Execution* and *Justice*, admit I had said them (which my Lord I do not, I must not Grant) there being an uprore of people, there such words might be used, and possibly

sibly Souldiers might take them up from them, and chastising the Souldiers I might repeat the words, *I will Justice you, I will Execution you.*

*L. Ch. Bar.* The Evidence is that you beat them because they did not readily cry *Justice, Justice.*

*Axel.* It might be more probable I beat them because they did do it, I might chastise them for doing of it, and repeat it as a reason for their Chastisement; and but admitting it was true, which I grant not, yet I hope Justice and Execution of Justice, as it is so great an Attribute of God, by Gods Laws nor Mans Laws is no where made Treason, but Mercy attends it, and Judgment attends the contrary; I leave it upon the consciences of the Jury, to weigh it carefully how I could be guilty of *Compassing or Imagining the Death of the King*, when nothing is charged against me to be either of Counsel, Sentencing, or Signing, or to be at the Execution, only one man, as I told you before, he spoke something wrathly, and that he had suffered much, and therefore he is come over now, and saith I should send for the Executioner, which I never knew of, or had any hand in sending for, how much validity that hath, I leave to the Jury, if it were so, it is not treason, for words may make a Heretick, not a Traytor; I speak that by way of preface; I do humbly conceive that these being only noted words, *Execution and Justice*, the King not so much as named, nor any thing done to it by me, I say I conceive it doth not amount to Treason by the Law; and besides, it is against the Law of the great Judg, the Judge of Judges; all of us, that are now, and are to come shall stand before him to receive our deserts, I say it is against the Law of God, *to make me an Offender for a word*; for a word, I have heard the Judges say that the Laws of England are grounded upon the Laws of God, and the Laws of England are Laws of mercy, not of rigour: My Lord, if a man shall be destroyed in his Life, in his Posterity for a word (admit the thing had been so) I leave upon the consciences of my Jury, before the presence of Jesus Christ, and before whom they and I must come to be rejudged again at the Tribunal; and besides it is only words, and words uncertain; and

and Sir *Edward Cook* saith, he must declare plain truth in matter of Treason, nothing must be taken for Evidence that may be a presumption or inference, or strain of wit, I hope upon this consideration that the word Justice fixed upon me by two Witnesses may be taken up at second or third hand from the People or Souldiers by chastising them for the Tumult. Then my Lord in the next place these words were never put in writing, and so not Treason; then, my Lord, there was never an overt act done by me; for that Act of Indemnity that his Majesty and both Houses of Parliament passed, wherein they were pleased the very last to except me, I wonder'd when I came to be excepted of that number, I do come back to the place where I left, and that is the overt act. My Lord, I would only bring it in in this place, when I was excepted by the House of Commons, one of the twenty, I was excepted thus not extending to life, I went up and down free at noon day, I did not hide my self, ingaging a person that was one of his Majesties Servants to do me a courtesie, he promised me he would do it, and contrary to his promise he was pleased to bring the Kings Warrant to carry me to the Tower, and after that I came to be excepted with that black Catalogue of excepted persons, and to be brought to the Tryal of the Law. Now (my Lord) I return to that overt act as it was but words uncertain, and they may be words repeated from the third or the fourth hand, for they were not put in writing; according to that Act of Indemnity which I understand the meaning of to be thus, That for their Execrable Treasons in Sentencing, Signing, or otherwise Instrumental, they are excepted out of this Act, and to be Tried according to the Laws of this Nation; I understand that to be Instrumental, to be Instrumentally the Executioner of the King, I never had any hand in that. Upon the whole this is the Fact that is proved by two Witnesses, they heard me say *Justice and Execution*, which must relate to the *Execution of Justice*, which by the Law of God is not Treason, especially when there was not the word King; for a word to take away and destroy so many, my Life, Wife, Children and many Fatherless that are under the Charge of the Prisoner at the

Bar is very sad, the words I do not grant but upon such probabilities as I have said; I might repeat them, *I will Justice you, I will Execution you*, and then the words were not written, I say as Sir *Edw. Cook* said, they may make a Héretick but not a Traytor, the other part of the Evidence is this, that I was there with Souldiers at *Westminster-Hall*, I must say if that be Treason to be guided by Judgment of Lords and Commons in Parliament, I must say if that be Treason to take up Arms for a Parliament upon such Grounds and Expositions of the statute which they have made and published by their own Authority, if I am Guilty under the General, then the Parliament would be guilty of Treason.

*L. Ch. Bar.* That you have spoke to—I am loath to interrupt you.

*Axt.* I thank your Lordships for informing me, but I was commanded to be there by my General, if I had not gone I must have dyed, I did only stand there for preservation of the peace, in no other sense, if the General order me to be at such a Rendezvous, I must be there; if I disobeyed he would have condemned me by the Law of War. The next thing against me material are these two things, that is that I should send one *Elisha Axtell* for the Executioner, I must say it is most Admirable such things should be laid to my charge, I hope your Lordships and the Jury do observe, he told you he suffered much, and a poor man under his extremities and losses and sufferings, perhaps might start some unadvised words, and being now sent over may ascertain it. But doubtless this *Elisha Axtell* being in *Ireland*, if by command it had been so, would have been sent over, truly I must say I had no hand in the business, it was left wholly to them amongst themselves, and what ever was done, or whatever was said, it was said and done by them, I never was acquainted with any thing of that nature, he said he heard I should send *Elisha Axtell* for an Executioner, if hearsays may be Treason it will be a hard Lesson; and my Lord, Sir *Edw. Cooke* saith there must be two witnesses, here is but one. It comes from such a man, my Lord as the providence of God, but I will say no more as to that, but pray the Jury will take notice of it.

*L. Ch. B.*



*L. Ch. Bar.* You need not doubt of it, it shall be taken notice of, this of *Burden*.

*Axt.* Now my Lord, I have but two or three words more, the Statute of the 25<sup>th</sup> of *Edward* the Third, it doth intend private persons, my Lord here is my Commission.

*L. Ch. Bar.* It is owned, you had it from your General.

*Axt.* My Lord, his Majesty is pleased to say in his Gracious Letter, We do by these presents declare, *That we do grant a free and General Pardon to all our Subjects of what degree or quality whatsoever, who within Four days after the publishing hereof shall lay hold upon this our grace and favour, excepting only such persons as shall hereafter be excepted by Parliament, that is a Parliament called by his own Writ. You know this Parliament* —

*L. Ch. Bar.* Mr. *Axtell*, I would not interrupt you to that, but this very Objection was made by one of the Prisoners before; this answer was given; First the King's Declaration is not a Pardon in point of Law, it must be under the Broad-Seal; but God forbid but it should bind in honour. You instanced in the word Parliament, what was meant by the word Parliament: you must know this, the exigency of the Times were such, that there were many Noble Persons that took the advantage to Assemble themselves together to reinstate the King; they did that which was just and lawful, according to the exigency of the Times: This Declaration he sent to the two Houses, he called them His Two Houses, so that it appears clearly and manifestly, they were then sitting, they being accepted by the King, and owned by Him; and they did sit in way of Convention, according as a Parliament, and his Majesty sent his Letter to them; and these are the persons that have thought fit to except you out of that Act.

*Axtell.* My Lord, may I speak to that any further?

*L. Ch. Car.* If you do, it will be over-ruled.

*Axt.* I submit — with submission to the providence of God; I did apply to Sir *Harbottle Grimston* for the Mercy and Favour of his Majesty according to his Declaration; and here is Sir *Harbottle's* own hand for a Certificate.

*L. Ch. Bar.* That is allowed you that you did claim that benefit

benefit within the time, but you may remember that it was referred to those two Houses of Parliament, they were to consider who was fit for the Pardon, and you are by them Excepted out by Name : Your question now is no more, but *whether guilty or not guilty*, and these are but extravagant Discourses that you say otherwise, and rather do you harm then good.

*Axtell.* I hope you will pardon me, my Lord, I hope I have spoken to clear the Point; The Fact charged by your Lordships and before the Jury; and I hope the Lord will give the Jury a Memory of it, and a right Understanding in what I have said for my own Defence. My Lord, the next thing I have to offer, is this, to Expound that Act of Parliament, that it was the intention of his Majesty and Parliament, that all should be excepted but those guilty of Councelling, Signing or Sentencing. Truly my Lord, I humbly conceive, I being none of those, am not guilty of Treason. I shall only speak one word to my Jury, That they will remember what I have said, that there is but two things, two Witnesses, as to *Justice and Execution*, that it relates to no person but in General; and then I do not own the things, but possibly they might hear such words, I taking of them up upon a rebound, reproved the Souldiers; for the other that I should send one for the Executioner (he heard so) and that I should name who was the Executioner, I would not have that person or any other to suffer for that.

*L. Ch. Bar.* That is not at all pressed upon you, not as to any Charge.

*Axtell.* I thank your Lordship. I am very ignorant.

*L. Ch. Bar.* Have you done Sir ?

*Axtell.* I leave the matter to the Jury, in whose hands I and my little Ones, and Family are left, I only say this to you, Remember your Ancestors, Remember your Posterity. I never heard it before that words were Treason. In Queen *Maries* time *Tbrockmorton* was acquitted for words, by the Jury. Gentlemen of the Jury I leave my Case, my Life, my All, in your Hands.

*L. Ch. Bar.* Gentlemen of the Jury, There hath been several

veral things offered by the Prisoner at the Bar, as near as my Memory will give me leave in so long a Discourse. I shall repeat all things which he saith for himself, and which are said against him. There are some things that he seems to utter as tending to matter of Law, and something meerly of Fact, proper only for you of the Jury. For matter of Law, he hath urged several things for himself, not by way of justification of the Fact, (I must do him that right,) but in excuse of himself, and I hope his conscience hath so wrought upon him, that he is of opinion, the Fact was a horrid Fact, which was so indeed.

For that which he hath said for himself; First, he doth alledge to have his Commission from the Lord *Fairfax*: My Lord *Fairfax* had his Commission from the two Houses of Parliament, and this Gentlemans was in *March* the beginning of the year 1648. he saith what he did was in obedience to his superiors, as a Soldier; that he never consulted or advised about any thing of the Tryal or execution of his Majesty. For this point it hath already been spoken to Gentlemen, for that which hath been spoken to at large heretofore I must repeat it here that he may know it, That no Person whatsoever, no Community, not the people either collectively or representatively have any coercive Power over the King, neither the Lord *Fairfax* his General, not he, nor any other person could be excused for this horrid Fact of bringing the King to Trial, No person, as I said before, nor Community have any such power. The Law-books which he hath lately seen (and truly he hath imployed his time well in that) the Law-books tell us, that whereas the two *Spencers* had broached a damnable and detestable principle, that the homage was only due to the King in respect to his Crown, that if he did not demean himself according to such and such rules his Subjects might rule him *per asperitatem* by asperity and sharpness; but this was condemned by two Acts of Parliament, they both appear in my *L. Cooke* in *Calvins* case. I do not go to repeat all the evidence that might clear this truth, I say, had there been any such thing, but it hath been told him there was no such thing in Fact. My Lord *Fairfax*'s Commission

was for the preservation of the King, as well as for the liberties of the People. The 11. of *Rich. 2.* *Robert de Vere* and others for levying a War was punished, but this Gent. was not charged for levying of War. If either of the Houses of Parliament should command such a thing as tends to the death of the King it would be void in it self. Something he let fall of the Parliament not being dissolved. My Masters, for that you have heard some of my Lords declare how and in what manner this was an Authority of Parliament, but it was clearly nothing at all, this Gentleman goes by Vertue of a Power from the Lord *Fairfax*. The next thing he urges in point of Law was this, he comes by way of Dilemma, saith he, either I must obey my General or dye by the Law of War. He goes further, and urges the statute of 11. *Hen. 7.* He comes further and saith in the 25. *Edw. 3.* that concerns single persons, truly it concerns every man. The Indictment you see how it is laid, *It is for Imagining and Compassing the Death of the King.* The overtacts in the Indictment you have heard what they are, there must be more than one Witness for Treason. It is very true, but if one person prove one thing, another person another, if one swear he did cry *Justice, Justice, Execution, Execution*, and another swear some other part, Gentlemen this was here before delivered to you for an overtact. It is any thing that opens and makes it appear to the Jury that he did do the things for which he is Indicted, I say any one of these that they did meet together, and did consult in order to the putting the King to Death. That they did meet in a Trayterous Assembly about the Kings Death I shall say no more, you need not I think go from the Bar.

*The Jury go together, and after a little consultation among themselves, they returned to their places.*

*Clerk of the Crown*, Gentlemen of the Jury, are you agreed of your verdict?

*Jury.* Yes.

*Cl.* Who shall say for you?

*Jury.* Foreman.

*Cl.* *Daniel Axtell* hold up thy hand. Gent. look upon the Prisoner at the Bar : How say you, is he guilty of the high Treason

Treason whereof he stands Indicted, and hath been arraigned, or not guilty. *Foreman.* Guilty.

*Cl.* Look to him Keeper. What Goods and Chattels?

*Jury.* None to our knowledg.

*The Tryal of Colonel Hacker the same day,  
15. October, 1660.*

*Clerk of the Crown.* Set *Francis Hacker* to the Bar: (which was done accordingly.

*Cl. Fr. Hacker,* Hold up thy hand. These men that were last called are to pass upon you, &c. If you will challenge all or any of them, you must challenge them when they come to the Book, before they are sworn.

*Lord Chief Baron,* You may challenge 35 peremptorily, but no more.

*Hacker.* My Lord, I shall challenge none.

*Tho. Bide, Rob. Sheppard, Will. Dod, Sir Tho. Allein, Sir Hen. Wroth, Tho. Morris, Ralph Halsal, John Galliard, John Nicol, Tho. Usman, Tho. Nicol, Christopher Abdy,* in all Twelve. The Jury called and sworn.

*Clerk of the Crown.* Proclamation, if any man can inform my Lords, the Kings Justices, &c.

*Clerk, Francis Hacker* hold up thy hand; look upon the Prisoner, you that are sworn of this Jury. You shall understand that *Francis Hacker*, Prisoner at the Bar, stands indicted, &c.

*Mr. Serj. Keeling.* My Lords and Gentlemen of this Jury, *Francis Hacker*, the Prisoner at the Bar, stands indicted, amongst others, for Compassing and Imagining the death of the late King *Charles the First* of happy Memory. The Compassing and Imagining is the Treason it self; the other points, as *Convening, Assembling, Meeting together*, and the actual villany that followed all these are but as Evidences of that Imagination. As to this person at the Bar our Evidence will be thus. We shall make it appear to you, that he was one of

the persons that were upon the Guard, and kept the King a Prisoner, that he might be sure to be brought to that *Mock Court of Injustice*. Then it will appear to you, That this Prisoner at the Bar was highly trusted by all those Miscreants that thirsted for the Kings blood, by their bloody Warrant directed to him and others, to take the Kings person into custody, and to see Execution done. This was the person that kept him till he brought him to that fatal Stage. That this Warrant was lately brought from his own house by his own Wife to the House of Lords, and then we shall shew you that this person set his hand to the Warrant to the Executioner for Execution. That he did not do it ignorantly nor unwillingly, for he heard the Warrant read : we shall make it appear that he was upon the Scaffold, and had the Ax in his hand.

*Council.* Cryer, call *Holland, Sympson, Col. Tomlinson, Mr. Nunnelly, Mr. Nutly, Hercules Huncks, and Benjamin Francis*, who were all sworn as Witnesses.

*Council.* Mr. *Sympson*, speak your knowledge of the employment of the Prisoner touching the Tryal and Execution of the King.

*Hacker.* My Lords, I will confess what I know in this case, to save your Lordships the trouble. I confess I was upon the Guard, and had a Warrant to keep the King for his Execution (*the Warrant being shewn to the Prisoner, he confessed that to be the Warrant.*)

*Council.* After you had that Warrant brought to you, did you by virtue of that direct another Warrant for Execution of the King ? Did you not take the King (then prisoner) from the custody of Colonel *Tomlinson* ?

*Hacker.* No Sir,

*Council.* We shall prove it, the Warrant was read, *At the High Court of Justice for Tryal, &c.* My Lord at the time that this Warrant was signed, the person of the King was in the custody of Col. *Tomlinson*, did not you take and demand from Col. *Tomlinson* the person of the King as soon as you received that Warrant ?

*Hacker.* No Sir, I demanded him not.

*Council.*

*Council.* Col. Tomlinson tell my Lords the manner of that business.

*Tomlinson.* My Lords and Gentlemen of this Jury, I shall as my memory enables me, make a faithful Narrative of this business : I had indeed to do with the Guard, that had to do with the person of the King about St. *Jameses*. Being then an Officer of the Army, a Colonel of Horse, when the King came to St. *Jameses* : it was observed by some, that there was too great an access of people admitted to the King, and within one day or two after, there was a party of Halberteers appointed for the stricter observing the Guard ; they were commanded by three Gentlemen, of whom this Prisoner at the Bar was one ; the orders every day for removing the person of the King were commonly directed to four persons, and those were my self, Lieu. Col. *Cobbet*, Capt. *Merryman*, and one more : but the Guards that still went along were the Halberteers. So that every day when the King did go to *Westminster*, he went to Sir *Robert Cottons* House, and so far I went with him, and no farther. I never went with him nor saw him at that pretended High Court of Justice. When he used to go to the High Court of Justice, commonly (every time indeed) the Serjeant, Serjeant *Dendy* (as I remember his name was) he used to come and demand, that the King should go to the High Court of Justice, and Col. *Hacker* did ordinarily go with him, with the Halberteers. It was my custom to stay in the room till he came back again : these Orders continued, during the time of his Trial. After the Sentence was given, on the day whereon the Execution was to be done, it was ordered (which order may be produced if significant) that the Guards that were for the security of the person of the King should cease, when a Warrant from the High Court of Justice for the Execution should be produced : I would not omit any thing that I well remember, and this I remember, that the night before the Execution the King called me into his Chamber and told me several things ; I will take the occasion to trouble you with a short discourse of it, he told me of some Legacies he had given, he told me he had prepared something that he would speak the

next



next day, and in the close of it he desired me, that I would not leave him (for I speak it in truth) there were many times several incivilities offered to him, and though I was upon a duty, that was of a harsh and unpleasing nature to me, and did desire several times to be released from it, (as I believe is well known to some) yet I did not admit any time that any incivility should be offered to him; people would take Tobacco before him, and keep their hats on before him, I always checked them for it; he was pleased to have a consideration of that care, that I had in that capacity I then stood. That very night before his death he was pleased to give me a Legacy, which was a gold Tooth-picker and Case, that he kept in his pocket. The next day when the Warrant came, the Guard of Halberteers went with him through St. *Jameses* Park, I was present walking near the King, the Bishop of *London* (now of *Canterbury*) was with him and some others. As we were going thorough the Park, he was pleased to discourse something of what he had been discoursing before touching his Burial, he wished that the Duke of *Richmond* and some others that he should bring should take care of it. That morning in the Park, he told me he had been thinking of what he had said the night before. He told me he had some thoughts that his Son might come to bury him, and desired he might not suddenly be buried; I gave him assurance I would communicate his desire, and so I did: when he came to *Whitehall* he went into a room in the Gallery (I know not the name) the Guard stood in the outer room there. There was a Gentleman that came to me there, and told me he was endeavouring to present a Letter from the Prince to the King, and told me he could not get an opportunity, I said he should not want an opportunity if I could help him; it was Mr. *Henry Seymour*; it was delivered and the King read it, and he gave several things in charge to Mr. *Seymour* to acquaint the Prince with, and was pleased to mention to him, something of civility that I had shewn him in his imprisonment, the effect and fruit of it I find, and do most humbly acknowledg before all the world my thanks to his most gracious Majesty the King, and to the Lords and Commons.

After

After Mr. *Seymour* was gone from him, (I do not well remember the time, whether it was twelve, one, or two a clock,) Col. *Hacker* came in, and there was present with him the two other Gentlemen that were named in the Warrant (as I remember) I am sure Col. *Hacker* (if my memory fail me not) did produce the Warrant. My self and those Gentlemen that were concerned in the former Orders looked upon this Warrant; by which the Orders which he had were at the end. I must confess I did not, nor none of those did tell him that the Orders for security of his person were at an end, but Col. *Hacker* did go in to him, and after a little while Col. *Hacker* comes to the door, and the King was coming forth, and he told me that the King desired I should go along with him; and indeed the night before when the King told me that he had prepared something to speak, he desired I would not leave him. So Col. *Hacker* led him forth, the Bishop of *London* followed him, and I followed the Bishop of *London*, the Guards were prepared without, and they went on to the Scaffold, when we came to the Scaffold I went so far as to the entrance upon it, the King was upon it, and had looked a little while about it, and was thinking to have spoken over, but he turned about to me, and began to direct his speech to me. I cannot trouble you with what the King said, for I cannot remember it, but that Colonel *Hacker* was there in prosecution of that Warrant, and upon that Warrant our Orders were at an end I do aver.

*Coun.* You delivered him upon that Warrant, did you?

*Toml.* He went and received the King upon that Warrant; it was a Chamber that was known then by the name of the Horn-Chamber, and there the King was in the inner room: this is the substance of all.

*Cour.* We will trouble you with one or two Witnesses more.

*Coun.* Mr. *Tomlinson*, did Mr. *Hacker* or his Souldies take Tobacco to the Offence of the King?

*Toml.* I do not say that any Tobacco was taken there by Mr. *Hacker*, but the Souldiers would be stepping in, and take Tobacco at his Chamber in *St. James's*, and committed other incivilities.

*Council.* We have proved, that the Prisoner did demand, and had the person of the King : now we will prove to you that himself had the boldness to make a Warrant in pursuance of the former, for the Execution of the King.

*Coun.* Cryer call Mr. *Huncks*. (He being sworn said.)

*Huncks.* My Lords and Gentlemen of the Jury, that day the King died, a little before the hour he died, I was in *Ireton's* Chamber, where *Ireton* and *Harrison* were in bed together, there was *Cromwell*, Colonel *Hacker*, Lieut. Col. *Phayer*, *Axtell*, and my self standing at the door, this Warrant for the Execution was there produced, and you (looking upon Mr. *Hacker* at the Bar) were reading of it, but *Cromwell* addressed himself to me, commanding me by vertue of that Warrant, to draw up an Order for the Executioner ; I refused it, and upon refusing of it there hapned some cross passages. *Cromwell* would have no delay. There was a little Table that stood by the door, and pen, ink and paper being there, *Cromwell* stepped and writ, (I conceive he wrot that which he would have had me to write : ) as soon as he had done writing, he gives the pen over to *Hacker*, *Hacker* he stoops and did write ( I cannot say what he writ, ) away goes *Cromwell* and then *Axtell* ; we all went out, afterwards they went into another room.

*Council.* What followed ?

*Hunc.* Immediately the King came out and was murther'd,

Mr. Secretary *Morrice*. Mr. *Huncks*, you did tell us in the Tower (when we were sent by his Majesties Council to examine you, and others there) that Col. *Hacker* did then sign that Warrant for nominating and appointing the Execution.

*Huncks.* My Lord, *Cromwell* comes to me, and bids me write a Warrant for that purpose ; I refusing of it, *Cromwell* writes himself, and *Hacker* writing to the same paper, what should I conceive, but that it was the Warrant ? (the King presently after coming to the Scaffold.)

*Council.* Did *Cromwell* give you no bad names, because you would not write that Order ; Did not he say you were a Coward ?

*Huncks.* He said I was a froward peevish fellow.

*Conn.*

*Council.* Did *Hacker* only write his name, or give directions in the drawing up of the Order.

*Huncks.* I conceive he only writ his name.

*Council.* My Lord, we have only that Eye-witnefs.

*H. Hacker* confessed to the Gentleman-Jaylor of the Tower, that if he did do it, he did it by order.

*Mr. Secretary Morrice, and the L. Annesly sworn.*

*Council.* Mr. Secretary, we desire you would be pleased to tell my Lords what Col. *Hacker*, the Prisoner at the Bar, did confels to you and others touching this business.

*Mr. Secretary.* When Col. *Huncks* (for that title he now assumes) was brought over out of *Ireland*, and committed to the Tower of *London*, there was three of the Council, by order of the Board, sent to examin him, Sir *Anthony Ashly-Cooper*, Mr. *Annesly* and my self : In obedience to that order, we repaired to the Tower, and had Col. *Huncks* brought before us, we told him, that he (being one of those which was appointed by warrant from the supposititious high Court of Justice, to carry on the Execution of the King, and see it done) must needs know who was the Executioner : whereunto he answered, that he for his part did not know who was the Executioner ; for the Warrant whereby the Executioner was nominated & appointed, was refused to be signed by him, but Col. *Hacker* signed it, and therefore Col. *Hacker* must know it. Accordingly upon our return we made our Report to the Board, and upon this there was an Order, that Col. *Hacker* should be sent for, taken into Custody, and brought before the Lords of the Council : Accordingly he was apprehended, and the same three Councillors were sent down to examin him. We took him into a private room, and examined him, and told him (amongst other things) that he being the man that (as we are informed) did sign the Warrant, for the nominating and appointing the Executioner, doubtless he must needs know who that was, at first he said he did not sign this Warrant : I told him, I would have him well advised what he said ; for if you deny it, it will be proved by such a man, naming Col. *Huncks*, and that you will do your self a great prejudice if you deny that ; faith he, *I do believe I did*  
sign

*sign the Warrant for appointing the Executioner, that is all I can say.*

*L. Annesly.* Gentlemen of the Jury, it is very true as you have been told already, that I was amongst those that the Council sent, to the Tower of London, first to examine Col. *Huncks* and Mr. *Cook*, that hath been condemned, *Hulet* and some other Prisoners. We did examin Colonel *Huncks*, and he did by his Examination acquit himself from signing that Warrant that he was charged with, being one of the three appointed to see execution done, but they appointed another to sign the Warrant (Col. *Huncks* refusing) and upon his refusal (as he said) *Cromwel* that urged him to it, said he was a cowardly fellow, or something to that purpose: when we examined him about the person in the *Frock*, he said he knew nothing of that, but that Col. *Hacker* signed that Warrant for Execution; this Examination being reported to the Council, the Lords sent for *Hacker*. I think upon notice Colonel *Hacker* came, he had been of the Army, and continued till that time an Officer: when he came thither, the Lords of the Council having notice of it, commanded the same persons formerly appointed, to go out and examine him; we had him into a little room belonging to the Clerks of the Council, and examined him to that point concerning the Man that cut off the Kings head, whether he knew any thing of it: he did affirm positively he did not know; we told him that he was the man, by testimony, that signed a Warrant for Execution of the King, and then certainly he must know the person that he appointed by his Warrant; he said, if I did sign any Warrant, it was by command of the General, that being but hypothetical, we thought it meet to make it more positive, whereupon we asked him whether he was the Man that signed the Warrant or no. Thereupon (as I remember, and as the Examination which was all written with mine own hand doth help my memory) he did say he did believe he did sign such a Warrant; thereupon he was asked further, how could it be possible, that he could forget the man if he signed the Warrant, he knew who the man was that was appointed, he said for that, that he

he did believe the Warrant was read to him, and that therein the mans name might be, but he could not now remember his name, this was the effect of his Examination and Confession.

*Council.* Mr. *Francis*, did you see Colonel *Hacker* at the time of the Execution upon the Scaffold?

*Francis.* Yes, I did see him as a principal Commander there, I was coming out of *Westminster* into *London*, about half an hour before the King came upon the Scaffold; coming near the Scaffold, as soon as I was engaged in the throng, (when I had passed about eight or ten yards,) I could not pass backward nor forward; I was inforced to stand there: during that time, I saw the Scaffold and the Ax, and the Block taken up by divers people, and principally I saw a man that is not here, he is in custody, I saw him take it up, and try it with his Thumb, and lay it down, this was *James Berry*, he came off, and came not upon the Scaffold again unless disguised.

*Council.* Did you see *Hacker* there, did you see him upon the Scaffold when the King came on?

*Francis.* I did see him, he was there, his Majesty came to the side of the Scaffold next to St. *Jameses*; he looked that way and smiled, after a while the block and Ax lying down about the middle of the Scaffold, there was a black Cloath hung about the rails of the Scaffold.

*Council.* We have another Evidence, the Prisoner hath confessed enough, but we have proved that he had the King in custody, he confessed that he believed he did sign the Warrant, and that he at the time of Execution was there to manage it. What do you say for your self?

*Hacker.* Truly my Lord, I have no more to say for my self, but that I was a Souldier and under command, and what I did was by that Commission you have read.

*L. Ch. Bar.* Can you deny any thing that Mr. Secretary and Mr. *Annesly* have declared?

*Hacker.* I cannot tell what I might then say, the Gentlemen were very strict with me, truly I have been no Counsellor nor advisor, nor abettor of it, but in obedience to the command over me I did act. My desire hath been ever for  
the

the welfare of my Countrey, and that Civil power might stand.

*L. Ch. Bar.* Have you yet resolved who you gave the Warrant for Execution to?

*Hacker.* No my Lord, I delivered none.

*L. ch. B.* But you know who it was directed to.

*Hacker.* No indeed my Lord, be pleased to ask Col. *Huncks* whether I read this Warrant or no.

*L. ch. B.* This is all you have to say for your self?

*Hacker.* Yea my Lord.

*L. ch. B.* Then Col. *Hacker*, for that which you say for your self, that you did it by command, you must understand, that no power on earth could Authorize such a thing, No command in such a case can excuse you. There is a two-fold obedience, a passive obedience, to suffer, rather than do things unlawful, and an Active obedience, to do that only which is lawful : and therefore this will not excuse your obedience to those unlawful commands.--Gent. of the Jury you see the Prisoner at the Bar stands indicted for *compassing* and *imagining*, the death of the late King, and there are several open Acts set forth in the indictment which tend to prove that matter : one is assembling and meeting together, another is sitting upon the King, another sentencing, and at last concludes with the murder of the King, as the consequence of all. Any thing that tends to the proving of this compassing and imagining his death, in any one of these particulars, that is an evidence to you to prove the whole indictment. This Gentleman was Commander of Halberters, Col. *Tomlinson* saith, that though he kept the Guards that were about the Kings person, this Gentleman with two other persons, brought Halberters, that there might not be such frequent access as formerly to the King, there is one Act. He commands these Halberters at that time when the business was in agitation, before that High Court, as they called it. You see after the sentence was given, that he was one of the persons to whom the Warrant for Execution was directed, you see afterwards there was a consulting together, *Cromwel*, *Ireton*, *Harrison*, and *Axtel*, were in the



the Chamber, when Col. *Huncky* refused to sign : the prisoner signed the Warrant, but knows not the person, to whom it was directed : you see besides, Col. *Tomlinson*'s testimony, who saith further, that when they were discharged, Col. *Hacker* went in and the King was brought out presently after to that fatal place. Col. *Huncky* swears, that when that Warrant was offered to him he refused it, that *Hacker* the Prisoner at the Bar, signed a Warrant, though he doth not remember the name of the person to whom ; it appears by two Witnesses (honourable persons) he confessed he signed it, but he did not know the person to whom directed. You see another Witness, *Benjamin Francis*, he saith he saw *Hacker* upon the Scaffold with the King.

He doth not deny the fact, you need go no further, it is very plain he had a hand in this business, a principal agent in it, he that brought the King to the Scaffold, he that had the care in managing that business, he that signed the Warrant to the Executioner, either he is guilty of compassing the death of the King, or no man can be said to be guilty.

*The Jury went together, and after some little consultation, returned to their places.*

*Clerk of the Crown*, Gentlemen of the Jury, are you agreed on your Verdict ?

*Jury*. Yes.

*Clerk*. Who shall say for you ?

*Jury*, Our Foreman.

*Clerk*, *Francis Hacker* hold up thy hand, Gentlemen look upon the Prisoner at the Bar, how say you, is he guilty of high Treason whereof he stands indicted, and hath been arraigned, or not guilty ?

*Foreman*. Guilty.

*Clerk*. Look to him Keeper.

*Clerk*. What Goods and Chattels, &c.

*Jury*. None that we know of.

## The Tryal of *William Hulet*. 15. Octob. 1660.

**C**lerk of the Crown, Set *William Hulet* to the Bar (who was brought accordingly.) *William Hulet* alias *Houlet*, hold up thy hand. Those persons that were last called of the Jury are to pass, &c. If you will challenge them, or any of them, you must challenge them when they come to the Book before they be sworn.

*L. Ch. Bar.* Understand you have power to challenge five and thirty men, and not above, You may challenge them without cause shewn. If you have cause for any other, you may challenge them also. If you will have Pen, Ink, and Paper, you may have them.

*Hulet*, Truly my Lord, I cannot Write but a very little, I shall not need them. I did not understand my Indictment well, I desire to hear it again.

*L. Ch. Bar.* You will hear it read again.

Clerk, Sir *Thomas Allen*, Sir *Henry Wroth*, *Thomas Bide*, *Robert Sheppard*, *Thomas Morris*, *Ralph Halsal*, *John Gallyard*, *John Nicoll*, *Thomas Ufman*, *Christopher Abdy*, *William Dod*, in all twelve. Jury called and sworn.

*Cl. of the Cr.* *Will. Hulet*, alias *Houlet*, hold up thy hand. You Gentlemen that are sworn, look upon the Prisoner.

*Cl.* You shall understand, that he stands indicted of high Treason, by the name of *Will. Hulet* alias *Houlet*, late of *Westminster* in the County of *Middlesex* Gent. for that he as a false Traytor, &c. (here the indictment was read) Unto which indictment he hath pleaded not guilty, and for his Tryal hath put himself upon God and the Country, which Country you are; Now your charge is to inquire, &c.

Sir *Edward Turner*, May it please your Lordships and you Gentlemen that are sworn of this Jury, we are now entering upon the last Act in this sad tragedy of the Murder of the late King, there have been before you some of the Judges, the Councel, the Chaplain, and the Guard, this Prisoner

ner at the Bar, in the last place was one of those which came with a frock on his body, and a vizor on his face to do the work. The course of our evidence will be this, first we shall prove by witnesses that saw him, and knew him, that he was thus disguised: he hath confessed that he was upon the Scaffold, that he hath had several preferments, and I fear it will appear that it was he that gave that fatal blow, for he hath confessed he had an hundred pounds given him for his service therein, and we doubt not, but to pluck off his vizor by and by. The indictment is for compassing and imagining the death of his late Majesty of glorious memory; if we prove to you any circumstantial overtact, whereby you shall be convinced of this, you are to find him guilty.

*Richard Gittens* sworn.

*Counsel*, Mr. *Gittens*, tell my Lord and the Jury what you know touching the prisoner at the Bar.

*Gittens*. The thing is this my Lord, this Gentleman at the Bar and my self were both in a Regiment in one company as Serjeants, about twelve or thirteen years together. About a day or two before the King came to the Scaffold, Colonel *Hewson* did give notice to a Lieutenant, that we should come to him, about 38 of us; and he put us all to our Oaths, that we should say nothing of what they did; he swore us to the book; after he had sworn us, he asked us if we would undertake to do such an Act, if we would, we should have an hundred pounds down, and preferment in the Army as long as that stood, and the Parliament. Afterwards we refused every person, we thought Captain *Hulet* did refuse: after all refused, it seems, he did undertake to do the deed. When the King was brought on the Scaffold, we were in *Scotland yard*, and they were upon the Guard in the Banqueting-Chamber: when they were there I laid down my Arms and got into the company; Captain *Webb* kept the Guard, with his Halbert in his hand, by the Scaffold, and I did busile to come near to them; then I returned back. *Hulet* (as far as I can guess) when the King came on the Scaffold for his execution

execution, and said, Executioner is the block fast ? then he fell upon his knees.

*Coun.* Who did ?

*Gittens, Hulet,* to ask him forgiveness, by his speech I thought it was he ; Captain *Atkins*, who would not undertake to do this fact, I told him, I would not do it for all the City of *London*, no nor I neither for all the World, saith *Atkins* ; you shall see *Hulet* quickly come to preferment : and presently after he was made Captain Lieutenant.

*Councel.* Was he with his Regiment that day ?

*Gittens.* We could not see him with the Regiment all that day, he was never absent at any time before.

*Councell.* Did you know his voice ?

*Gittens.* Yes Sir.

*Councell.* Did you mark the proportion of his body, or his habit, what disguise he was in ?

*Gittens.* He had a pair of freeze trunk breeches, and a vizor, with a gray beard, and after that time Colonel *Hewson* called him Father Gray-beard, and most of the Army besides, ye cannot deny it.

*Hulet.* I desire as to this witness, he doth alledge that he and I were Serjeants in one company, which I deny, he was not in that company I was in, I desire to know of him how he comes to know that I was there at that time.

*Gittens.* By your voice.

*Hulet.* I will swear that this man was with the Regiment, under the Scaffold, where were you at that time when the Act was done ?

*G.* Where was I, by Captain *Web* ?

*H.* Where was he ?

*G.* At the door of the Banqueting-house.

*H.* Was you on the Scaffold or no Sir ?

*G.* I was on the Scaffold end.

*H.* My Lord I desire you to consider what this person saith, he saith he was upon the Guard in *Scotland yard*, and at the Scaffold with Captain *Web*. My Lord, I desire again, whereas he said I had a gray-beard, let any man besides himself say, that ever I was called by that name gray-beard throughout the Regiment.

*Stam*

*Stammers sworn.*

*Council.* What have you to say concerning the Prisoner at the Bar ?

*St.* He was a Captain Lieutenant to Colonel *Hewson's* Troop, when I had entred my self into that Troop, I was a while in *Dublin*, and I was commanded by the prisoner at the bar, I and the rest, to march to a place called *Lutterells* Town, about 5 miles beyond *Dublin*, the prisoner at the Bar came thither to us two dayes after, then being in his chamber he sent for me up, I went up and sate down, he examined where I had served, I told him I did formerly belong to the Lord of *Inchequin*; he asked me if I was ever in the Kings Army, with that he walks about the room two or three turns, saith he, I was the man that beheaded King *Charles*, and for doing of it, I had an hundred pounds, saying, I was a Sergeant at that time.

*Hulet.* I desire to ask him a question, I confesse (what is your name?)—

*Council,* *Stammer* his name is *Stammers*.

*H.* Such a one was under my command. I think I have not seen you these eight Years; I desire to know when these words were spoken and the place.

*St.* I say in *Lutterels* town in your own chamber, and that was nine or ten years ago.

*H.* It is about eight years ago since I left that command; who was by at that time?

*St.* No body.

*Hulet.* 'Tis strange. How long had you been in the Troop before?

*St.* I was in *Dublin* about a fortnights time, then you sent for me and I came to *Lutterels* Town; the first time that I came to the Troop was at *Dublin*, and then you came to me with two Orders from *Hewson*, and then you did pretend you was brother to one Mr. *Chambers*, and then we went and quartered in *Lutterels* Town.

*H.* My Lord, his examination in *Ireland* and this doth

not agree, you did deny this before *Baldwin* a Trooper, I desire his examination may be read; (*which was accordingly read, and agreed with the testimony now given*) I desire he may mention what man that was that I sent for him.

St. I cannot tell what man.

H. My Lord, I desire that servant may be either named or produced.

St. I cannot remember the man, it is seven years ago.

H. Then again upon another accout, as he speaks before that I should examine him where he had been, and that he should say at the Lord *Inchequins*.

*Captain Toogood sworn.*

*Toogood*, I shall first give your Lordships and the Jury what I have heard others say concerning the prisoner at the bar, and that is first Colonel *Hewson*: I was in the year 1650. about September, in *Dublin* Castle, about some business with *Hewson*, Captain *Hulet* the prisoner at the bar, came into the room, he talked with Colonel *Hewson* a little while, I observed them very familiar, and I asked *Hewson* what he was he told me he was his Captain Lieutenant of Horse, I desire to know where he had him, he told me he made him so from a Serjeant, and a very mettled fellow he was, it was, he that did the Kings business for him upon the Scaffold. In the year 1653. there was a disbanding of the Army in *Ireland*, this Gentleman was then continued Captain Lieutenant in *Pretties* Regiment, I discoursed with *Pretty* concerning him, and one part of it I remember, was about the Kings death, and he did tell me that he was assured by Colonel *Hewson*, that *Hulet* either cut off the Kings head or held it up, and said, *behold the head of a Traytor*: Colonel *Pretty* would not tell me which of the two it was, but I saw the person that did it, and me thought he did resemble this person. About 12. moneths after I came to live near the prisoner in *Ireland*, once I remember at one Mr. *Smiths* at the White-horse in *Carlom*, I met him there, and I was asking the prisoner at the bar the question, whether he was the

the man that cut off the Kings head or not, saith he, why do you ask me this question? I told him I had heard by several, namely by Hewson and Pretty, upon what he said, well, *what I did I will not be ashamed of; if it were to do again I would do it*; once since that time, about half a year afterwards, I was in the same place, and there talking with him about the Kings death, he was telling me it was true, he was one of the two persons that was *disguised* upon the Scaffold. I desired to know, what if the King had refused to submit to the block? saith he, there were *staples* placed about the Scaffold, and I had that about me that would have *compelled* him, or words to that effect; other times I have heard him speak something to this. *November*, the last in the the Queens County at *Maryborough*, Col. Jones took upon him to be Governour, and to choose two out of a Regiment that might be the Rulers of the people, Legislators, I think they call'd them, I did discourse about the business again, and did oppose it all: after a while he began to be very hot in the business about *Lambert*: said I, you were heretofore too forward; sayes he, if it be the business of the Kings head, I will never deny it, call me to an account when you will: I have observed in *Ireland*, that it hath been generally reported, that he was either the man that cut off the Kings Head, or that held it up, as I said before, and I have heard them sometimes call him *Grandfire Grey-beard*.

*Hulet*. My Lord, I do confess I know the Gentleman very well, we were in a Regiment together, I never discoursed with any concerning this, but only once at a place going from *Cullen* to *Munster*, we did drink at a place called *Goran*; we were discoursing about the business of the King, the justification of the cutting off his head; saith *Stammers*, I did hear that you were one of the persons for that purpose; said I, they that say so do me wrong: saith he, it is no matter if you were so; for it was a just act: said I, whether it was or no, I have nothing to do to justify it, he was speaking as I hope to be saved I would have done it.



*Walter Davis Sworn.*

*Council.* What can you say, Mr. *Davies*, to this business?

*Davies.* Gentlemen, that which I can say is this: in January last was two years, I was at *Dublin*, I met Captain *Hulet*, he invited me to take share of a pint of Wine; I went with him to a Tavern; when we were in the Tavern he called for a pint of wine, and I called for another; before we had drank out the last pint of wine, said I to Captain *Hulet*, I pray resolve me this one question, it is reported that you took up the Kings head, and said, behold the head of a Traytor; Sir, said he, it was a question I never resolved any man, though often demanded, yet saith he, whosoever said it then it matters not, I say it now, it was the head of a Traytour.

H. I confess we did meet together, as you say, but I must and do deny the words.

*Lieutenant Collonel Nelson sworn.*

*Nelson*, My Lords and Gentlemen of the Jury, upon a discourse with Col. *Axtel* as I related once this day, about six years since, in many other discourses we fell to discourse about the death of the late King, I supposing he had been acquainted with that affair, I desired him to tell me those two persons disguised upon the Scaffold; he told me I knew the persons as well as himself, saith he, they have been upon service with you many a time: pray Sir, said I, let me know their names; truly said he, we would not employ persons of low spirits that we did not know, and therefore we pitcht upon two stout fellows; who were those said I? It was *Walker* and *Hulet*, they were both Serjeants in *Kent* when you were there, and stout men: Who gave the blow said? saith he, poor *Walker*, and *Hulet* took up the head; pray said I, what reward had they? I am not certain whether they had thirty pounds apiece, or thirty pounds between them.

*Hulet*, Pray let Mr. *Axtel* speak to this, he is hard by.

*Colonel Tomlinson sworn.*

*Council*, Pray tell my Lords your knowledg in this business.

*Tomlinson,*

*Tomlinson*, My Lords and Gentlemen of this Jury, I cannot punctually remember what their habits were, but they had close garments to their bodies, they had hair on their faces, one was gray to the best of my remembrance, the other was flaxen colour.

*Council*, Can you tell who struck the blow?

*Tom*. My Lord, I cannot remember, but I think he with the gray hair on his face did it.

*Nelson*, My Lord, I will not positively say it, but it came lately to my mind that I did hear in *Ireland* by Col. *Pretty* that *Hulet* did it; my Lord, this Col. *Pretty* is alive in *Ireland*.

Ben. Francis sworn.

*Francis*, My Lords and Gentlemen of the Jury, as to the Prisoner at the bar, he was very active in that horrid act, there was two of them had both clothes alike, their frocks were close to their bodies (as I remember) they were rather in Butchers habits of woollen, one had a black hat on his head cockt up, and a black beard, and the other had a grey grissled periwig hung down very low, I affirm, that he that cut off the Kings head was he in the gray periwig, and I beleieve this was about that mans stature (*pointing to Mr. Hulet*) and his beard was of the same colour, if he had any. I was coming from *Westminster*, the Scaffold was encompassed within, with a great Guard of Souldiers of *Redcoats*, I think commanded by *Biscoe*.

*Hulet*, Was you upon the Scaffold?

*Francis*, No Sir, there was none of my constitution upon the Scaffold.

*Council*, Fuller evidence I think cannot be expected, you have heard all the Witnesses, what can you say for your self?

*Hulet*, My Lord, here is several witnesses examined concerning the business, and for my part I do not understand the Law: I must leave it to the Court. I can upon the other account prove where I was at that very time, I can in the next place my Lord, since I came into *London*, for I did not hear it

before, I can tell you, who was the person that did that act, I can bring forty and forty witnesses that will prove who they were that did it, as I have been informed by several Witnesses, that they know who was the person that did it: upon the other accompt I can prove where I was that day, but I did not know when I was arraigned, what was laid to my charge: Here was some examinations taken before my Lord Mayor concerning the person or persons that did that act: (here he offered a paper, a copy of the said examinations, subscribed *Mary Brandon* and divers others.)

*Mr. Secretary. Morrice.* Was you not examined in the Tower?

*Hulet,* Yes Sir.

*Mr. Secr. Morrice,* Did not we tell you, that you were charged with cutting off the head of the King?

*Hulet,* Yes Sir, you did tell me so.

*L. Ch. B.* Then you had time to provide your witnesses.

*H.* I was a close prisoner.

*L. Ch. B.* Where were you on the day of execution?

*H.* I was a prisoner then at *Whitehall*.

*L. Ch. B.* For what?

*H.* Upon this accompt we were taken up, about seven or nine of us were taken up, we were all Serjeants, three of *Col. Hackers*, the rest of *Prides* and *Fairfaxes*, and about ten of clock at night were discharged.

*L. Ch. Baron,* For what were you imprisoned?

*H.* For refusing to be upon the Scaffold.

*Burden,* It was a common speech among the Souldiers that *Hulet* cut off the Kings head.

*L. Ch. B.* How long before did you see *Hulet* upon the guard?

*Burden,* The day before, but not that day, nor the day after.

*L. Ch. B.* *William Hulet*, the evidence against you is twofold, one concerning the cutting off the Kings head, the other that you were in a frock. If it be proved that you did not cut off the Kings head, yet if you were in a frock in that place it will not excuse you, if you have any thing to say I will be glad to hear it.

*Hulet,*

*Hulet*, I desire the persons may be examined upon oath, prisoners and others, who was the person that did it, I mean *Hacker*, *Huncks*, and *Phayer*.

*L. Ch. B.* You that are the prisoner, for that which concerns *Hacker* and *Phayer*, you know what conditions they are in, one already tryed for his life, the other a prisoner in the Tower; and *Hacker* saith himself, he doth not know the person at all; you that are prisoner at the bar, the Court conceives you have had time to get your witnesses here, you were informed of the business before you came here, yet notwithstanding, it is conceived there are some here that can say something tending to the information of the Jury, but they are not to be admitted upon Oath against the King.

*Sheriff's Officer examined.*

*Sheriff's Officer*, My Lord, all that I can say in this business is this, one of our fellows that belongs to our Master the Sheriff, *John Rooten* by name, he and I were talking about this very story, and he did acquaint me with this. That he was in *Rosemary-Lane* a little after the Execution of the King, drinking with the Hangman, that he did urge him whether he did this fact. God forgive me saith the Hangman, I did it, and I had forty half Crowns for my pains.

*Abraham Smith examined.*

*Smith*, My Lord, as soon as that fatal blow was given, I was walking about *White-hall*, down came a file of Musketeers, the first word they said was this, where be the Bargemen. Answer was made, here are none, away they directed the Hangman into my Boat, going into the Boat he gave one of the Souldiers a half Crown, saith the Souldiers, Waterman away with him, be gone quickly; but I fearing this Hangman had cut off the Kings Head, I trembled that he should come into my Boat, but dared not

to examine him on shore for fear of the Souldiers, so out I lanced, and having got a little way in the water, said I, who the Devil have I got in my Boat? says my fellow, sayes he why? I directed my speech to him saying, are you the Hangman that cut off the Kings Head? No as I am a sinner to God saith he, not I, he shook every joynt of him, I knew not what to do; I rowed away a little further and fell to a new examination of him, when I had got him a little further: tell me true said I, are you the Hangman that hath cut off the Kings Head? I cannot carry you said I, no saith he, I was fetcht with a troop of Horse, and I was kept a close prisoner at *White-Hall*, and truly I did not do it, I was kept a close prisoner all the while, but they had my instruments. I said I would sink the boat if he would not tell me true, but he denyed it with several protestations.

*William Cox examined.*

*Cox.* When my Lord *Capell*, Duke *Hamilton*, and the Earl of *Holland* were beheaded in the Palace yard in *Westminster*, My Lord *Capell* asked the Common Hangman, said he did you cut off my masters head? yes saith he, where is the instrument that did it? He then brought the Ax: is this the same ax are you sure, said my Lord? Yes my Lord saith the Hangman, I am very sure it is the same: my Lord *Capell* took the Ax and kissed it, and gave him five pieces of Gold, I heard him say, firrah, wert thou not affraid? saith the Hangman, they made me cut it off, and I had thirty pound for my pains.

*Richard Abell examined.*

*Abell,* My Lord, in the house of one Mr. *Bramston* I did hear *Gregory* himself confesse that he cut off the Kings head.

*L. Ch. E.* You that are the prisoner at the bar, the Court is willing to give all full scope as far as may be to examine the truth of the facts, as they would not condemn the innocent,

so they would not acquit the guilty : do you desire further time to examine the truth of it, before it be put upon the Jury.

*H.* I do confess I do not understand the Laws, I desire I may have a little further time : I desire the Jury may be withdrawn, I desire a fortnights time, but submit to the Court.

*A Stranger Examined.*

*Stranger,* My Lord, I was with my Master, in the company of *Brandon* the Hangman, and My Master asked *Brandon*, whether he cut off the Kings head or no? He confessed in my presence that he was the man that did cut off the Kings head.

*Lord Chief Baron,* You that are the Prisoner at the Bar, the Court was willing to give you as much time as they could by Law : The Jury hath been charged, and evidence given, all those Witnesses have been examined that we could hear of now, for your advantage, I will say something to you, It was here said, and given in Evidence, that *Axtell* did send a Boat to fetch the common Hangman, if we knew more that might tend to your advantage it should be repeated. You Gentlemen of the Jury, mark it? There is first *Gittens*, he swears that he was in the same Regiment that you were in, twelve or thirteen years together, he saith that he and others were called together upon their Oaths, and you amongst the rest, and there was an Oath of secrecy, asking them if they would do such an Act, they all refused to do it, so did you : but he said, the day of Execution of the King this *Gittens* got among them, and one Captain *Web* kept the door, and he saw you fall before the King, and ask the King forgiveness, he said he heard your voice, and so knew you : and that the day after Captain *Atkins* said, you shall see *Hulet* shortly come to preferment, and he saith he did not see you in the Regiment that day, and that *Hewson* and all the Regiment used to call you *Father Gray-beard*. *Stammers* he saith, that you was Capt. Lieutenant to Col. *Hewsons* Troop, and you coming to *Lutterels* town, you asked him several

several particulars, whether he had been in the Kings Army, walking up and down you said, you were the man beheaded King *Charles*, and for that you had one hundred pounds, this he swears positively. *Samson Toogood* he swears, he saw you come to Col. *Hewson* in 1650. you talked to him very familiarly; when you were gone he asked who you were, he told him you were a Captain Lieutenant of Horse, and he said, that you were a very mettled fellow, and did the Kings business upon the Scaffold: that afterwards, Col. *Hewson* Regiment being discharged, you came to be of *Pretty's* Regiment, and that he told this Gentleman, that he was assured by Colonel *Hewson*, that it was you, that either cut off the Kings head, or took it up and said, *Behold the head of a Traytor*. He saith afterwards, that in 1654. in *Carloe*, he asked you the same question, and you demanded of him who told him? He answered he was told by several persons, namely *Hewson* and *Pretty*. You said, what I did I will not be ashamed of, and if it were to do, I would do it again. He says again at another time, that you were one of the two persons who were then upon the Scaffold, and that there were staples to enforce the King to submit, if he struggled. *I had that about me which would have done the business*. And he says, in November last you came to a meeting upon a summons of Colonel *Jones*, and then did avouch *Lamberts* quarrel, he said you were too forward heretofore; you said, if it be the business of the Kings head, I will never deny it, call me to an account when you wil. He heard many call you *Grandfire Gray-beard*. Then there is another Witness, I think his name is *Davies*, he was in discourse with you, drinking two pints of Wine; It is reported (says he) you took up the Kings head, and said, *Behold the head of a Traytor*: and he desired you to resolve him whether it was so or no: you said again, it had been demanded often: but you never resolved any man: you said, whosoever said it then, I say now, *It was the head of a Traytor*. *Nelson* he swears, that about six years since he was in discourse with *Axtell* about it, and *Axtell* told him they were a couple of stout men to your knowledg (speaking to *Nelson*) I was one to do in that



that affair : we made choice of two, *Walker*, and *Hulet*, who gave the Blow ? *Walker*, but *Hulet* took up the head. Colonel *Tomlinson* he says, that there were two on the Scaffold, one that had a gray-beard, and the other somewhat flaxen. *Nelson* also heard by Colonel *Pretty* that you did it : and then *Ben. Francis* he says, they had both Frocks alike, one a black beard, one a gray grissled periwig, and believes he was about your stature. This is the substance of what the witnesses have said against you ; Gentlemen you hear what has been proved on behalf of the Prisoner, that is, if you believe the Witnesses that are not upon Oath, that *Brandon* confessed it, and denyed he did it, several Witnesses that say *Brandon* confessed he did it, and that he told them of a sum of Money that was given him. Gentlemen of the Jury, you see the whole point in this case, the Indictment is for Compassing and Imagining the death of his late Majesty ; the Evidence goes two ways, part of the Witnesses one way, part another way, if you believe either of them, then you ought to find that the defendent is guilty : if either he was in the Frock, though he was not the man that did it, or if you find he did it, it is a clear testimony of his Imagining and Compassing the death of the King. Now it rests upon you to consider the Evidence that is given for the Common Hangman, that he should be the man that did it : that the Prisoner at the Bar did not cut off the head ; on the other side, if you do believe he was one of the two in the Frocks, upon the relations of these persons, *Pretty*, *Hewson* and *Axtell*, if you believe it upon these relations, and after his own confession, that if he was to do it again he would do it ; then upon this evidence that is given you, he is to be found guilty, though he did not cut off the Kings head. You have heard the Evidence on all sides, it rests upon you, pray go together and consider of your Verdict. I have forgotten one thing, God forbid I should omit any thing that may be as well for advantage as against the Prisoner at the Bar : if you take it singly, if you have nothing of other proof, what another man says of me doth not charge me, unless there be something of my own, what you have heard

heard from himself, and what you have heard by relations from others, that is to be left to you. It is my duty to tell you, that which is said by another of me, that alone is not a pregnant evidence; you must remember withal, what is sworn positively; what he said himself: this being said, I must leave it to you. Pray go together.

*After a more than ordinary time of consultation, the Jury returned to their places.*

*Clerk*, Are you agreed of your Verdict?

*Jury*, Yes.

*Clerk*, Who shall say for you?

*Jury*, Our Foreman.

*Clerk*, *Will. Hulet* alias *Howlet*, hold up thy hand. Gentlemen look upon the Prisoner at the Bar, how say you, is he guilty of the high Treason, &c?

*Foreman*, Guilty.

*Clerk*, Look to him Keeper. What Goods and Chattels?

*Jury*, None to our knowledg.

*And then the Court adjourned till to morrow morning seven a clock in this place.*

*Octob. 16th, 1660. Sessions-House Old-Baily.*

*Proclamation of the Court.*

**C***Lerk of the Crown*. Set *Isaac Penington*, *Hen. Marten*, *Gillb. Millington*, *Rob. Tichburn*, *Owen Roe*, *Rob. Lilburn*, *Hen. Smith*, *Edm. Harvey*, *John Downes*, *Vincent Potter*, *Aug. Garland*, *Simon Meyne*, *James Temple*, *Pet. Temple*, and *Tho Wayte*, (in all fifteen) to the Bar, which was accordingly done.

*Clerk of the Crown*, You the Prisoners at the Bar, those of the Jury that were last called are to pass, &c. if you or any of you, will challenge all or any of them, you must challenge them when they come to the Book before they be sworn.

*Charles*

*Charles Pitfield, Christopher Abdy, Richard Cheyney, George Tirrey, Daniel Cole, Hall, Richard Abell, Edmund Starnel, Edmund Pitt, Will. Witcomb, Fran. Dorrington, and T. Nicoll,* called and sworn of the Jury.

*Cl. of the Crown, Isaac Penington, Henry Marten, &c.* Hold up your hands. Gent. that are sworn look upon the Prisoners at the Bar. You shall understand that the said *Isaac Penington, &c.* together with, &c. (*here the Indictment was read*) Unto which they and every of them have severally pleaded Not Guilty, and for their tryal have put themselves upon God and the Country, which Country you are : now your charge is to enquire, &c.

*K. Coun.* May it please your Lordships and you Gentlemen of the Jury, the Prisoners at the Bar stand Indicted of high Treason, for Compassing and Imagining the death of the late King **CHARLES** the First of Glorious Memory. The Indictment sets forth several *Overt-acts*, by which that Imagination doth appear, the Treason it self is the Compassings: Our Evidence will go on thus : We shall prove against them all, that they did fit (in that which they called the High Court of Justice) upon the King, whilst the King was a Prisoner at the Bar, most of them did sentence him, all but *Harvey* and *Penington* did sign that bloody Warrant for his Execution, and that one of the Prisoners at the Bar was in before the High Court of Justice consulting of bringing it about. When we have proved this I think it is enough. Pray call the Witnesses.

*Harvey.* My Lord, according to my duty I shall save this honourable Court all their trouble. I do humbly acknowledge, that I was and did sit in that Court, but I did not Sign and Seal that Warrant.

*L. Ch. B.* It is very true *Mr. Harvey.*

*Har.* I hope your Lordships and this honourable Bench will give me leave (in that time which you shall appoint) to shew you my reasons that I did it not of Malice, and it was an error not of Will, but of Judgment; what I have to say will be (thought not for the annihilating) yet for the extenuation of my crimes.

*Lord*

*Lord Chief Baron.* Say now what you will, only consider with your self, whether you have not already spoken as much as you can for the Extenuation of it, say what you can further.

*Harvey.* Let me speak a word.

*L. Ch. Bar.* Go on Sir.

*Harvey.* My Lord, I do humbly conceive, if I had conceived that I had then done any thing of Treason, I would not for all the World have been there. I was present when his Majesty did not own the Court, desiring that both his Houses might meet, that he might have a Conference with them for settling of the peace : My Lord, heartily and unfeignedly I did endeavour that that advice might be embraced, and that no sentence might be pronounced. I was one of those (with some others) that did so far promote it, that that which they called the High Court of Justice, did withdraw to consider of it, but the major part of it did dissent. But my Lord, I was so unhappy as to return to the Court, though with reluctance ; I went with a resolution not to go more to them, nor never did ; I was summoned to come to the Court : I did declare I abhorred the thing, that my Soul had reluctance against it, and I was greatly grieved and troubled at it, and I did refuse any more to come, or to consult about any thing that followed in order to his Majesties death, and to Sign and to Seal. And that I may make it appear to your Lordships, I pray I may have a Witness or two examined.

*Lord Chief Baron.* Name them. Did he sit upon the day of sentence ?

*Council.* Yes he did, he followed it.

*Mr. Edw. Corbet* examined.

*Mr. Corbet.* My Lord, the attestation which I this day make solemnly in the holy fear of Almighty God, and in awful reverence of this great Tribunal, hath only this great scope, that Colonel *Harvey* the Prisoner at the Bar, upon that day of signing the Warrant for that horrid Execution of His most Excellent Majesty, not in title only, but in reality, he find me as I was passing to the duty of my place in the Assembly

sembly of Divines then sitting, he seized on me, and desired privacy of time and place, that he might disburthen his soul and spirit unto me, it was then about nine a clock in the forenoon to the best of my remembrance,

*L. C. B.* What day I beseech you?

*Corbet.* To the best of my remembrance upon the Monday; Sir, says he, I desire to make known unto you the deep horror that sits upon my spirit, the sadness and grief above all expressions that my present case has cast me into; I have endeavoured, Sir, says he, in the sight of God all that possibly I could, to divert them from the Sentence, I could not prevail. Sir, says he, I have been this morning solicited with very much earnestness, that I would go and sign, and seal, and order, that wicked Execution, which my soul abhors; and Sir, that I might be removed and withdrawn from all temptations and solicitations of such a wicked fact, I beseech you spare me your time this day, which I did, in the presence of another Divine, till four a clock that afternoon, and then I parted and went to *Westminster*, to sign and assist that which I did apprehend my bounden duty, the Vindication of the Assembly of Divines, wherein we did testify, that it was far from our thoughts to advise the Parliament to any such unheard of unnatural act.

*Counsel.* We do admit that after he sat and Sentence past, that he did not sign.

*Harvey.* Be pleased to call one *Mr. Tho. Langham*, he hath heard me often declare against that act.

*Mr. Thomas Langham* examined

*Lord Chief Baron.* What do you say *Mr. Langham* as to this business?

*Langham.* Sir, about the time that his Majesty was executed in 1648, I was then Servant to Alderman *Sleigh*, who was formerly partner with this Colonel, and he frequently came to Alderman *Sleigh's* every night, and the Alderman having

having some business with him, would ask him what News there was at the High Court of Justice; he usually told him the passages upon any day; the Alderman asked him if so be he thought his Majesty might escape? he told him this, that he would do what lay in his power that he might; that he might not come to have Sentence past, upon *Saturday* being also there, he told him this, that he had done what lay in his power to hinder the Sentence, but could not attain his design, but he was resolved he would never sign, nor seal to his Majesties death, for it was utterly against his Judgment.

*Harvey.* There is another (my Lord) and but one more, that is *George Langham*.

*Lord Chief Baron.* To what purpose? This is believed.

*Harvey.* I shall only crave and supplicate this favour of this Honourable Bench, that this Honourable Bench will be pleased on my behalf (since I have endeavoured it two moneths before) to present my humble Petition to his Sacred Majesty, and to intercede for mercy and favour on my behalf, my self, my wife, and thirteen Children shall humbly pray.

*The Court received the said Petition, and promised to present it to his Majesty.*

*Millington.* I do not know whether it will be seasonable for me to interpose now I would speak a little.

*Lord Chief Baron.* Is he next in order.

*Clerk.* No my Lord, *Pennington* is next.

*Pennington.* I am unwilling to be troublesome to the Court. This I shall take the boldness to say; (which shall be nothing but truth) I never had a hand in plotting, contriving malicious practices against his Majesty, demonstrated by my utterly refusing to sign the Warrant for his Execution, though often solicited thereunto; I cannot deny but I sate amongst them that day of the Sentence, but I cannot remember I was there when the Sentence passed. My sitting amongst them was out of ignorance, I knew not what I did, therefore I hope you will believe there was nothing of malice in any thing I did, I was misled to it.

**L. Ch. Baron.** I cannot hear you (he not speaking aloud.)

**Penington.** It was Ignorance, not Malice, that lead me ; if I had known what I had done, I would not have done it ; I humbly pray that there may be a favourable construction made of it, I humbly leave it with you. I did my Duty to pray for the King, but had no malice to act willingly against him.

**Clerk. Henry Marten.**

**Counsel.** He did both sign and seal the Precept for summoning the Court, and the Warrant for Execution ; sat almost every day, and particularly the day of Sentence.

**Marten.** My Lord, I do not decline a confession so as to the matter of Fact, the malice set aside, *maliciously, murderously, and traiterously.*

**Counsel.** If you have any thing to say to that, we will prove it.

**L. Ch. Baron.** That I may inform you in it, there is malice implied by Law, malice in the Act it self : that which you call malice, that you had no particular intention or design against the King's Person, but in relation to the Government, that will not be to this present business ; if it should extenuate any thing, that would be between God and your own Soul ; but as to that which is alledged in the Indictment, *Maliciously, Murderously, and Traiterously*, they are the consequences of Law. If a Man meet another in the Street and run him through, in this case the Law implies malice, though but to an ordinary Watchman, there is malice by the Law in the Fact ; if there was no such expressed personal malice as you conceive, yet the Fact done, implies malice in Law.

**Mr. Solicitor General.** My Lord, He does think a Man may fit upon the death of the King, sentence him to death, sign a Warrant for his Execution, *meekly, innocently, charitably, and honestly.*

**Marten.** I shall not presume to compare my knowledg in the Law, with that of that Learned Gentleman, but according



cording to that poor understanding of the Law of England, that I was capable of, there is no Fact that he can name that is a Crime in it self, but as it is circumstantiated. Of killing a Watchman, as your Lordship instanced, a Watchman may be killed in not doing his Office, and yet no murder.

*Lord Chief Baron.* I instanced that of a Watchman, to shew there may be a malice by Law, though not expressed; though a Man kill a Watchman, intending to kill another Man, in that case it is malice in Law against him : so in this case, if you went to kill the King when he was not doing his Office, because he was in Prison, and you hindred him from it, the Law implies malice in this. It is true, all Actions are circumstantiated, but the killing of the King is Treason of all Treasons.

*Justice Foster.* If a Watchman be killed it is murder, it is in contempt of Magistracy, of the Powers Above; the Law says, that contempt adds to the malice.

*Counsel.* We shall prove against the Prisoner at the Bar (because he would wipe off malice) he did this very merrily, and was in great sport at the time of the signing the Warrant for the King's Execution.

*Marten.* That does not imply malice.

*Ewer sworn.*

*Council.* Come Sir, you are here upon your Oath, speak to my Lords and the Jury; you know the Prisoner at the Bar very well, you have sometimes served him; Were you present in the *Painted Chamber*, *January 29. 1648.* at the signing the Warrant, the Parchment against the King?

*Ewer.* The day I do not remember, but I was in that Chamber to attend a Gentleman there, I followed that Gentleman, (looking at *Mr. Marten*) I followed that Gentleman into that Chamber.

*L. C. Baron.* After what Gentleman?

*Ewer.* *Mr. Marten*, my Lord, I was pressing to come near, but I was put off by an Officer or Souldier there, who told

told me, I should not be there; I told him, I was ordered to be by that Gentleman. My Lord, I did see a Pen in Mr. *Cromwel*'s hand, and he marked Mr. *Marten* in the face with it, and Mr. *Marten* did the like to him: but I did not see any one set his Hand, though I did see a Parchment there with a great many Seals to it.

*Sir Purback Temple sworn.*

*Counsel.* What do you know of that Gentleman in his carriage of this Business.

*Sir Purback Temple.* My Lords, I being present in Town when that horrid Murder was contrived against the late King, there came some Persons of Honour, Servants to the late King, to my Father's House, Sir *Edward Partridge*, to engage me to join with them to attempt the King's escape. In order whereunto, they told me, nothing would tend so much to his Majesty's Service, as to endeavour to discover some part of their Counsels, for that it was resolved by *Cromwel* to have the King tried at the *High Court of Justice*, as they called it, the next day, and desired me (if possible) to be there to discover their Counsels, whereby the King might have notice, and those that were to attempt his escape. In order whereunto, the next day by giving Money to the Officer of the *Painted Chamber*, I got in by day light in the Lobby to the Lords House; I espied a Hole in the Wall under the Hangings, where I placed my self till the Council came; where they were contriving the manner of trying the King when he should come before them: and after the manner of praying and private consults amongst themselves; when their Prayer was over, there came news that the King was landed at Sir *Robert Cotton*'s Stairs; at which *Cromwel* run to a Window, looking on the King as he came up the Garden, he returned as white as the Wall: returning to the Board, he speaks to *Bradshaw* and Sir *Henry Mildmay*, how they and Sir *William Breerton* had concluded on such a Business; Then turning to the Board, said thus; *My Masters, He is come, He is come; and now we are doing*

that great Work that the whole Nation will be full of : Therefore I desire you to let us resolve here what answer we shall give the King when he comes before us ; for the first Question that he will ask us will be, By what Authority and Commission do we try him ? To which none answered presently. Then after a little space, Henry Marten, the Prisoner at the Bar, rose up, and said, In the Name of the Commons and Parliament assembled, and all the good People of England ; which none contradicted, so all rose up, and then I saw every Officer that waited in the Room, sent out by Cromwel to call away my Lord such a one ( whose Name I have forgot ) who was in the Court of Wards Chamber, that he should send away the Instrument, which came not, and so they adjourned themselves to Westminster-Hall, going into the Court of Wards themselves as they went thither. When they came to the Court in Westminster-Hall, I heard the King ask them the very same Question that Cromwel had said to them.

Mr. Solicitor. Gentlemen, the Prisoner at the Bar confesses his Hand to the Warrant for Executing the King ; you see by his Servant how merry he was at the sport. You see by his Witness how serious he was at it, and gave the foundation of that Advice upon which they all proceeded ; and now he says he did it not Traiterously, I humbly conceive he means it was Justifiable.

Sir P. Temple. At another time I was in Town on a Friday, and wanting Horses, I went to Smithfield, where I saw the Horses of State of his late Majesty to be sold in the Common Market ; at which I called to the Rider, said I, What makes these Horses here ? says he, I am to sell them ; Why, said I, there's the King's Brand upon them, C. R. and he shew'd them me : said I, Will you sell these Horses ? What price ? he asked me three or fourscore pound a piece ; said I, Who warrants the sale of these Horses ? says he, Mr. Marten and Sir Wil. Brereton. Afterwards I heard the Horses were taken into the Mews by the Prisoner at the Bar, and Sir Wil. Brereton.

Counsel. Was this before the Trial ?

Sir P. Temple. It was in 1642, or 1643.

Counsel.

*Counsel.* That's nothing to this Business.

*Marten.* My Lord, the Commission went in the name of the Commons assembled in Parliament, and the Good People of *England*; and what a matter is it for one of the Commissioners to say, Let it be acted by the *Good People of England*?

*Mr. Sol. Gen.* You know all *good People* did abhor it; I am sorry to see so little repentance.

*Marten.* My Lord, I hope that which is urged by the Learned Counsel, will not have that impression upon the Court and Jury that it seems to have, That I am so obstinate in a thing so apparently ill: My Lord, if it were possible for that Blood to be in the Body again, and every drop that was shed in the late Wars, I could wish it with all my heart: But, my Lord, I hope it is lawful to offer in my own defence, that which when I did it, I thought I might do. My Lord, there was the House of Commons, as I understood it, (perhaps your Lordships think it was not a House of Commons) but then it was the Supreme Authority of *England*, it was so reputed both at home and abroad. My Lord, I suppose he that gives obedience to the Authority in being *de facto*, whether *de jure* or no, I think he is of a peaceable disposition, and far from a Traitor. My Lord, I think there was a Statute made in *Henry* the Seventh's time, whereby it was provided, That whosoever was in Arms for the King *de facto*, he should be indemnified, though that King *de facto*, was not so *de jure*: And if the Supreme Officers *de facto* can justify a War, (the most pernicious Remedy that was ever adjudged by Mankind, be the Cause what it will) I presume the Supreme Authority of *England* may justify a Judicature, though it be but an Authority *de facto*. My Lord, if it be said that it is but a third estate, and a small parcel of that, my Lord, it was all that was extant. I have heard Lawyers say, That if there be Commons appurtenant to a Tenement, and that Tenement be all burnt down except a small Stick, the Commons belong to that one small piece, as it did to the Tenement when all standing. My Lord, I shall humbly

offer to consideration, whether the King were the King indeed, such a one whose Peace, Crowns and Dignities, were concerned in Publick Matters : My Lord, he was not in execution of his Offices, he was a Prisoner. My Lord, I will not defer you long, neither would I be offensive, I had then, and I have now a peaceable inclination, a resolution to submit to the Government that God hath set over me. I think his Majesty that now is, is King upon the best Title under Heaven, for he was called in by the Representative Body of *England*. I shall, during my life, long or short, pay obedience to him : Besides, my Lord, I do owe my life to him, if I am acquitted for this. I do confess, I did adhere to the Parliaments Army heartily, my life is at his mercy ; if his Grace be pleased to grant it, I have a double obligation to him.

*Mr. Sol. Gen.* My Lord, this Gentleman, the Prisoner at the Bar, hath entred into a Discourse, that I am afraid he must have an answer in Parliament for it. He hath owned the King, but thinks his best title is the acknowledgment of the People ; and he that hath that, let him be who he will, hath the best Title : we have done with our Evidence.

*Marten.* I have one word more, my Lord ; I humbly desire that the Jury would take notice, That though I am accused in the Name of the King, that if I be acquitted the King is not Cast : It doth not concern the King that the Prisoner be Condemned, it concerns him that the Prisoner be Tried ; it is as much to his Interest, Crown, and Dignity, that the Innocent be acquitted, as that the Nocent be condemned.

*Mr. Sol. Gen.* My Lord, this puts us now upon the reputation of our Evidence ; and you may see how necessary it is to distinguish between Confidence and Innocence ; for this very Person that desires you to have a care how you condemn the Innocent, he doth seem to intimate to you, that he is an innocent Person at the Bar ; and yet confesses he did sit upon the King, did Sentence him to Death, that he signed the Warrant for the Execution, and yet here stands that

that Person that desires you to have a care of condemning Innocence : What is this at the bottom of it, but that my Fact is such as I dare not call it Innocence, but would have you to believe it such. Gentlemen of the Jury, was it your intention the King should be so tried, as this Prisoner moved ? It will concern you to declare, That the People of *England* do abhor his Facts and Principles, every Fact the Prisoner hath confessed himself, the sitting in that Court, which was Treason ; his Sentencing was Treason ; signing the Warrant for Execution was the highest of Treasons : Gentlemen, all that he hath to say for himself is, there was an Authority of his own making, whereby he becomes innocent ; But we hope out of his own Mouth you will find him guilty.

*Gilbert Millington.* I desire you to hear me ; I come not hither to dispute, but to acknowledg ; I will not trouble you with long Discourses. My Lord, it is not fit for wise Men to hear them, I am not able to express them, I will not justify my self, I will acknowledg my self Guilty. My Lord, The reason why I said the last day *Not Guilty*, was, in respect of being upon the Scaffold, and murdering the King, and those things ; but I will wave all things if your Lordship will give me leave, and will go unto the lowest strain that possible can be ; I will confess my self Guilty every way. I was awed by the present Power then in being. This I leave with you, and lay my self at your feet, and have no more at all to say, but a few words in a Petition, which I desire you will please to accept, and so I conclude.

*Counsel.* We do accept this honest and humble Confession, —and shall give no evidence against him to aggravate the Matter.

*L. Ch. B.* Your Petition is accepted, and shall be read.

*Robert Titchburne.* My Lord, when I first pleaded to the Indictment, it was, *Not Guilty in manner and form as I stood Indicted.* My Lord, it was not then in my Heart, either to deny or justify any tittle of the matter of Fact : My Lord,

The Matter that I was led into by ignorance, my Conscience leads me to acknowledg : But, my Lord, if I should have said Guilty in manner and form as I stood Indicted, I was fearful I should have charged my own Conscience, as then knowingly and maliciously to act it. My Lord, it was my unhappiness to be call'd to *so sad a Work*, when I had so few years over my head : A Person neither bred up in the Laws, nor in Parliaments where Laws are made. I can say with a clear Conscience, I had no more enmity in my heart to his Majesty, than I had to my Wife that lay in my bosom. My Lord, I shall deny nothing ; After I was summoned, I think truly I was at most of the Meetings ; and I do not say this, that I did not intend to say it before, but preserving that *Salvo* to my own Conscience, That I did not maliciously and knowingly do it, I think I am bound in Conscience to own it : As I do not deny but I was there, so truly I do believe I did sign the Instrument : And had I known that then which I do now, (I do not mean, my Lord, my Afflictions and Sufferings, it is not my Sufferings make me acknowledg) I would have chosen a red hot Oven to gone into as soon as that Meeting : I bless God, I do this neither out of fear, nor hopes of favour, though the penalty that may attend this acknowledgment may be grievous : My Lord, I do acknowledg the Matter of Fact, and do solemnly profess, I was led into it for want of years, I do not justify either the Act or the Person ; I was so unhappy then as to be ignorant, and I hope shall not now (since I have more light) justify that which I was ignorant of, I am sure my Heart was without malice ; if I had been only asked in matter of Fact at first, I should have said the same, I have seen a little ; The Great God before whom we all stand, hath shewn his tender mercy to Persons upon repentance ; *Paul* tells us, Though a Blasphemer, and a Persecuter of Christ, it being done ignorantly, upon repentance he found mercy : My Lord, Mercy I have found, and I do not doubt, but mercy I shall find. My Lord, I came in upon the Proclamation, and now I am here, I have in truth given your Lordship a clear and full account, whatever the Law shall pronounce,



pronounce, because I was ignorant ; yet I hope there will be room found for that Mercy and Grace that I think was intended by the Proclamation, and I hope by the Parliament of England. I shall say no more, but in pleading of that, humbly beg that your Lordships will be instrumental to the King and Parliament on that behalf. —

*Counsel.* We shall give no evidence against the Prisoner ; he says he did it ignorantly, and I hope and do believe he is penitent ; and as far as the Parliament thinks fit to shew mercy, I shall be very glad.

*Owen Rowe.* I have not much to say, I never had any ability ; therefore, my Lord, it was never my intent upon my Plea, as was said before, to deny any thing I have done ; for I was clearly convinced, that I ought to confess it before, and I do confess against my self, that I did sit there several times, and to the best of my remembrance, I did sign and seal the Warrant for his Execution ; and truly, my Lord, it was never in my heart to contrive a Plot of this nature. How I came there I do not know, I was very unfit for such a Business, and I confess I did it ignorantly, not understanding the Law, so was carried away hidden in the Business, not understanding what I did ; therefore, my Lord, I humbly intreat this honourable Court, that you will consider of it, and look upon me as one that out of ignorance did it ; and if I had known of my Act, I would rather have been torn in pieces with a thousand Horses. When I heard of the Declaration and gracious Pardon of his Majesty, I confess I went to my Lord Mayors & laid hold of it ; and I thought my life as secure as it is now in my own hands : But I do wholly cast my self upon the King's Mercy ; and as I have heard he is a gracious King, full of lenity and mercy, so I hope I shall find it. I was never against Government, it is a blessed thing that we have it, I hope all the Nations will be happy under it. I shall submit to his Majesty and Government ; I can say no more, I was not brought up a Scholar, but was a Tradesman, and was meerly ignorant when I went on in that Business ; I do humbly intreat your  
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Lordships, that you would as tenderly as may be, present my case to the King, whom I rest upon, and leave all to your Lordships wisdom and discretion to do what you will concerning me.—

*Counsel.* We accept his Confession, and do hope he is penitent before God, as well as before the World.

*Robert Lilburn.* Be pleased to give me leave to speak a few words, I shall be ingenuous before your Lordships. I shall not wilfully nor obstinately deny the Matter of Fact; But, my Lord, I must, and I can with a very good Conscience say, That what I did, I did it very innocently, without any intention of Murder; nor was I ever Plotter or Contriver in that Murder; I never read in the Law, nor understood the Case throughly; What-ever I have done, I have done ignorantly.

*L. Ch.B.* Because you shall not be mistaken in your words, God forbid that we should carp at your words; the word Innocent hath a double acceptation, Innocent in respect of Malice, and Innocent in respect of the Fact.

*Lilburn.* The truth is, my Lord, I was for the withdrawing of the Court, when the King made the motion to have it withdrawn; and upon the day (my Lord) that the King was put to death, I was so sensible of it, that I went to my Chamber and mourn'd, and would, if it had been in my power, have preserved his life. My Lord, I was not at all any disturber of the Government. I never interrupted the Parliament at all. I had no hand in those things, neither in 1648, nor at any other time. I shall humbly beg the favour of the King, that he would be pleased to grant me his Pardon, according to his Declaration, which I laid hold on, and rendred my self according to the Proclamation.

*Counsel.* We shall say nothing against him.

*Henry Smith.* My Lord, I shall not desire to spend your Lordships time; what I have done, I did it ignorantly, not knowing what I did. I shall not deny the matter of Fact,

Fact, but as to that I pleaded *Not Guilty* before, it was in relation to that which I was ignorant of, the Law of the Nation; I have not been bred to it, I humbly desire your Lordships to consider, that what I did was done ignorantly, not knowing the Law.

*Counsel.* What was that?

*Smith.* I do confess that I sat in the Court, I do not remember that I signed or sealed, (both the Warrants being shewed him) adds, My Lord, I confess the hands are like mine, but whether they be so or no I know not.

*Counsel.* Then we will prove it. Is the Seal yours?

*Smith.* I do not know.

*Counsel.* Do you confess you were in the *Painted Chamber* the 29th of *January*? Do you remember any thing of that?

*Smith.* I do not certainly know that?

*Counsel.* My Lord, he hath said enough; Shall the Jury doubt of that which he believes?

*Smith.* I do not remember that I did write it.

*Counsel.* My Lord, we press it no farther, he hath confessed enough.

*Smith.* My Lord, what I have don: I beseech you consider; I did it in ignorance, not knowing the Law; there were those about me that were able to call me, who were then in Authority, whom I dared not disobey, if so, I had been in danger also.

*Counsel.* My Lords, we have done, be pleased to direct the Jury upon these several Evidences and Confessions.

*Smith.* I beg one word, I must declare this, I can speak it seriously, That from the first to the last of these unhappy Wars, I have been a Man of trouble and sorrow, I have been (as many wiser Men have been) run upon Error. My Lord, I know not what I have done, I pray that this Court will be pleased to be a Mediator for me, that I may have his Majesties favour, and that this Petition may be received on my behalf. (He then delivered his Petition to the Court.) I can rejoice for that happy settlement that is again in the Nations, and declare chearfully my humble submission to that Government; and desire the Lord will bless and prosper

prosper his Majesty and the Parliament in these Nations. My Lord, I rendred my self according to the Proclamation, I shall say no more.

*Lord Chief Baron.* Gentlemen you of the Jury; These Prisoners that stand before you at the Bar, that is, Mr. *Harvy*, *Pennington*, *Marten*, *Millington*, *Titchburn*, *Roe*, *Lilburn*, and Mr. *Smith*, there are eight; these are Persons who by the *Act of Indempnity* are to be tried for their Lives for the Treasons they have committed, but no Execution is to be until the Parliament have further considered the Matter that is before us, and you are to find the Matter of Fact; What Mercy they shall find hereafter, that is to be left ( as I told you ) to the consideration of the Parliament, we are to proceed according to Law and Justice. They are all Indicted for Compassing and Imagining the Death of our late Sovereign Lord *Charles* the First, of most glorious memory: And for that that hath been opened to you, there are so many Overt Acts, which are as so many Evidences to prove that Indictment, which is the compassing and imagination of their Hearts to put the King to Death. If any one of these be proved, that is alone enough to prove the Indictment, which is the compassing and imagining of the Heart, that is the Treason, the other are but Evidences. If any thing burst forth from the Mouth, or from the Hand, as here it is, these are Evidences of the imagination of the Heart: for this you have heard by the confession of all of them, that they did enough to find the Indictment, they have all of them confessed their sitting upon the King in that traiterous Assembly, which they called the *High Court of Justice*. There is one of the Overt Acts expressly laid down in the Indictment, they took upon them an Authority to consider how to put the King to death, and that they did put the King to death; but they were mistaken, as some of them said, that the actual murdering of the King was not their meaning. But if they did that which tended towards it, they are all guilty of Treason; it is all one to you if they be guilty of any of these; either Sitting, Sentencing, or Signing, they are guilty; and all of these, except two, are guilty of all these. The Mat-

ter is clear and pregnant, there is something hath been said by many of them with a great deal of expression of sorrow, they did confess ( all but one ) the Fact; and that which tended to their defence was ignorance; but that doth not at all concern you. It will be taken in its due time into consideration; the several deportments of them all, that is for another Judicature. Your business is to find the Matter of Fact, only this let me repeat unto you, There is Mr. *Harvy* who hath pleaded several Matters which are not proper for you, expressing his sorrow and penitence; We shall not trouble you with that, because they are for the consideration of another Court, We ought all to have a tender compassion, ought to be sorry with and for them that are sorrowful. The like of Alderman *Pennington*. *Marten* hath done that which looks forward more than backward, I could wish with all my heart, he had looked more backward; that is, to repentance of that which is past, than obedience to that which is to come; it is a trouble to repeat those things which he said himself, and truly I hope in charity, he meant better than his words were. *Millington* he hath done the like with the rest, confessed the Fact, put himself upon Mercy wholly, and said, He *was over-awed by the present Power*. This I repeat not as any thing to you, who are to consider only Matter of Fact. For Alderman *Titchburn* he hath spoken very fully, and truly very conscientiously—upon the whole Matter, acknowledges his ignorance, his sorrow, his conviction in point of Conscience; and I beseech God Almighty to incline his heart more and more to repentance. *They that crucified Christ* ( to use his own words ) *through ignorance, found mercy*. Colonel *Roe*, He confesses the same wholly, and casts himself upon the King's Mercy, and he thought it a blessed thing that the King was restored again, and submitted wholly to mercy; and so did Mr. *Lilburn*, he said he went to his Chamber and mourned the day the King was beheaded; I am very glad he had so early a sense of it. *William Smith*, He did it ignorantly, he was not guilty thus far; that was, he was led on, even like one silly Sheep that follows another, by what relation I have heard of  
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the Person; at that time he was not thought fit to be of the Privy Council. There is nothing more to say to you, the Fact is confessed by them all. It is so clear you need not go from the Bar.

*After a little consultation between the Jurors, they returned to their places.—*

*Clerk of the Crown.* Are you agreed of your Verdict?

*Jurors.* Yes.

*Clerk.* Who shall say for you.

*Jury.* Our Foreman.

*Clerk.* Edmond Harvey hold up thy hand. How say you, Is the Prisoner Guilty of the Treason whereof he stands Indicted and hath been Arraigned, or not Guilty?

*Jury.* Guilty. —

*Clerk.* Look to him Keeper.

*Clerk.* What Goods and Chattels? &c.

*Jury.* None to our knowledg.

*The same question being asked touching Alderman Penington, Henry Marten, Gilbert Millington, Alderman Titchborne, Col. Roc, Col. Lilburn, and Henry Smith, they were severally found Guilty by the Jury in manner aforesaid. All which Prisoners finding the place where they stood to be cold and unwholsome, prayed the Court they might have leave to be returned to the Prison, till the Court shall be pleased to command their further attendance; which was granted.*

*The rest of the Prisoners aforesamed, together with W. Heveningham, brought to the Bar.*

*Clerk.* You the Prisoners at the Bar, those Persons last called of the Jury are to pass, &c. If you or any of you, will challenge all or any of them, you must challenge them when they come to the Book before they be sworn.

*Clerk.* Charles Pilfield, Christopher Abdy, George Terry, Daniel Cole, Anthony Hall, Richard Abel, Edmond Starnel, Edmond Pit, William Whitcomb, Francis Dorrington, Thomas Nicoll, Robert Sheppard, in all twelve, admitted and sworn of the Jury.

*Clerk*

Clerk. If any Man can inform, &c.

Clerk. *John Downes* hold up thy hand, &c. and the like were said to to all the other Persons following, viz. *Vincens Potter*, *Augustine Garland*, *Simon Meyne*, *James Temple*, *Peter Temple*, *Thomas Waite*, and *William Heveningham*; Look upon the Prisoners at the Bar you that are sworn, you shall understand that *John Downes* the Prisoner at the Bar stands Indicted, &c.

*Kings Counsel*. May it please your Lordships, and you Gentlemen of the Jury; The Prisoners at the Bar stand indicted of High Treason, for compassing and imagining the Death of the late King *Charles* the First, of blessed memory; The Evidence by which we shall make out against them this Treason of their Heart, in compassing and imagining the King's Death, ( for that is the substance of the Indictment, and all that follows is but Evidence ) will be by proving that they did sit as Judges in that pretended Court of Justice, when the King stood a Prisoner at the Bar; That they did Sentence him to death every one of them; and we shall prove against all but one of them, that they did sign that bloody Warrant for murdering of the King; and against one of them that stands at the Bar, we shall prove ( to his shame and confusion of face ) that he did *spit* in the face of our late Sovereign Lord.

*John Downes*. My Lord, I have humbly pleaded *Not Guilty*, not with any intention to justify the Fact, or to extenuate it; but my Lord, in regard there is that charged in the Indictment, that my Conscience saith I am not guilty of, I durst not plead guilty; otherwise, my Lord, I should not have troubled you with *Not Guilty*, but should have humbly taken the shame and confusion for it; it is my intention to put the Court to as little trouble as possible I can, therefore I do most humbly intreat of your Lordships and the Court, that you will permit me to acknowledg that which will be a sufficient evidence of my Conviction, if the Court so please, and that you will be pleased to hear me on my behalf; if I can humbly offer to you some special thing which is not in the Case of another, ( I could wish it had, if it had, we had none

none been here) I do humbly acknowledg, that to sit upon that occasion in that place, is evidence enough to convince what is in the Heart, except by some signal Actions that might happen from some that might shew how it was his unhappiness to be put into such a business, yet had neither Malice nor Treason in his Heart: I do humbly conceive, that there is that goodness in you, that this Plea, this Allegation will be most welcome to you. My Lord, though there was such a thing, such an unparallel'd thing, I was thrust into this number, but never was in consultation about the thing: God is witness, I was not put in till the Act was ready to pass in a second Commitment, by one of the same number; I denied it, yet they said I must make one, I must take my share, so I came in. Never did I know of his Majesty's being brought to *London* till he came. My Lords, In this great unhappiness, I think it is some mitigation, and I judg it a happiness that so wise, prudent Persons as this Court consists of, that you are my Judges that can look back, my Lord, and consider what the Times were then; and can, my Lord, account it a happiness that there is a special Wisdom in you, that in nice Cases you will be able to make a distinction. I do indeed, my Lords, sadly and seriously confess, That I was divers times with those Persons that were called Judges of the late King, at several of their Meetings and Sittings; it is long ago, I cannot say how often, I was several times there. My Lord, I do humbly beg of your Lordships, (I will trouble you as short as I can) that you would be pleased so far to favour me, as to give me leave to give you a short account of the business; The last day his Majesty came to that which was called then a Court, several times he was brought, (I think thrice) and his Charge was given in words high enough, he said, He *could not acknowledg their Jurisdiction*, that was the Answer, my Lord, till the last day, then I confess I was there. He that was called *President*, did again and again tell him the Heads of his Charge; told him, he had several days given for consideration; That this was the last day that the Court (as they call'd themselves) would give him his final Answer;



if he stood still to day and move to the jurisdiction of the Court, they must take all *pro Confesso*, and would give sentence: My Lord, to this his Majesty indeed with a great deal of composedness and wisdom told them to this effect, I cannot own your Jurisdiction, you have power enough indeed, I wish you may use it well, but because you are so ready to give a sentence which may be sooner given then avoided, I think fit to let you know, that I have something that I desire to speak to my Parliament, for I have something to offer unto them that will be satisfactory to you all, and will be for the immediate settlement of the Kingdom in peace — My Lord, he that was called President, answered, that no notice could be taken of any thing but only whether he would answer to his Charge: upon that my Lord, his Majesty indeed (with the greatest earnestness that ever I beheld, and yet in no unseemly passion) told them they might soon repent of such a sentence; that he did conjure them to withdraw once again and to consider of it, if it were but half an hour, or (saith he, if that be too much for you) I will withdraw. My Lord, here I can make my appeal to him that must judge me when you have done with me, I had not a murderous nor a traitorous thought against him, but, Sir, I confess such deep passions did fall upon me, that truly my self I was not. I remember the persons between whom I sate, as it fell out, were one Mr. *Cawly*, and Col. *Walton*, these two I sate betwixt, these were the very words I speak to them, *Have we hearts of stone, are we men?* they laboured to appease me, they told me I would ruine both my self and them: said I, if I die for it, I must do it. *Cromwel* sate just the seat below me, the hearing of me make some stir, whispering, he looked up to me, and asked me, if I were my self? what I meant to do, that I could not be quiet? Sir, said I, No, I cannot be quiet: upon that I started up in the very nick, when the President commanded the Clerk to read the Sentence, I stepping up, and as loud as I could speak, spoke to this effect, these words, or to the like purpose, My Lord, (said I): I am not satisfied to give my consent

to this Sentence, but have Reasons to offer to you against it, and I desire the Court may adjourn to hear me: presently he stepped up and looked at me; Nay, saith he, if any one of the Court be unsatisfied, the Court must adjourn: Sir, accordingly they did adjourn into the inner *Court of Wards*; when they came there, I was called upon by *Cromwel* to give an account why I had put this trouble and disturbance upon the Court? I did speak, Sir, to this effect, ( it is long ago, the very words I think I cannot speak ) but to this effect I did speak: My Lord, I should have been exceeding glad if the Court had been pleased to condescend to this gracious Expression; but it is not too late for me: I desire not his Death but his Life, and that the Nations may be settled in Peace: The King now is pleased to offer, That if he might but speak with his Parliament, he would offer to them such things as should be satisfactory to us all. So ( said I ) what would you have? Your pretence of bringing him to these Proceedings was, That after such a long and bloody War, his Majesty would not condescend to such Concessions as might secure the Parliaments Party; but now you hear him, that he will give every one of us satisfaction: I told them, sadly told them, ( I think I may truly say, more sadly then, than at this time ) that if they should go precipitantly on, and give Judgment upon him, before they had acquainted the Parliament with what the King was pleased to offer, we should never be able answer it; the rather, my Lord, ( and that I did press with all the little understanding that I had ) if they did but consider the last concluded Order that the Parliament made after the passing of the Act for Trial, ( that which was so called ) I say there was this Order that shut up all, That upon any Emergency that could not at that time be thought on in the House, the Court should immediately acquaint the House with it. My Lord, I did infer as strongly as I could to them, That if this were not Emergent, I could not tell what was: The King denied the Jurisdiction of the Court, and yet with all vehemency desired to speak with his Parliament; were not these Emergencies? if not, I knew not what

what were Emergences. My Lords, Besides this, there was another thing I did press, that I thought was of greater consequence than this, as to the satisfaction of every Man's particular Conscience; that admitting (if it might be admitted) that the King was liable to his Subjects, that they might call him to an account, and might condemn him, (I beg your pardon that I take the boldness to make such admissions) but if such a thing might be admitted, certainly it did exceedingly become those Judges that were to give such a Sentence, (not against a common Person, but against the greatest) to be very well satisfied in Matter of Fact, to a full Evidence before them, that such and such things that were said were true. I do acknowledg this, that to the best of my apprehension (I wish it had been so to others) there was a great shortness in this; I do humbly affirm this, That not one Member of the Court did hear one Witness, *Viva Voce*; I did press, That if the Court did give Judgment against the King, without a fair Examination, I said it was such a thing, as no Judge at any Assizes would do against a common Person; what I had was from *Peters*, and from some private Whispers from one of them that is gone, and hath received his Sentence and Doom. *Cromwel* did answer with a great deal of storm, He told the President, that now he saw what great reason the Gentleman had to put such a trouble and disturbance upon them; saith he, Sure he doth not know that he hath to do with the hardest hearted Man that lives upon the Earth; however it is not fit that the Court should be hindered from their Duty by one peevish Man; he said, the bottom was known, that he would save his old Matter, and desired the Court, without any more ado, would go and do their Duty. Another that spoke to me in answer, was one that hath been before you, and hath received his Sentence, but is not dead, (and I desire I may not name his Name) his answer was to what I have said, That some Men were either Scepticks or Infidels. After this I did go into the Speaker's Chamber, and there I did ease my mind and heart with tears, God only knows, I have an unhappy memory, I have slipt many things.

*Lord Chief Baron.* Remember your self by Papers if you have any, no man will hinder you.

*Downes.* I have no papers; but my Lord for the truth of this I have said, there are some witnesses that will make the substance, the effect of this appear.

*Lord Chief Baron.* Mr. *Downes*, there is one particular before you come to the witnesses, that after all these Convictions, you signed the Warrant: you deny it, the Council will prove it.

*Downes.* I did never hope or think that any thing I can say, should be so satisfactory to you, but things might be retorted upon me, and perhaps what I thought might be for extenuating my Crime, my fall out to my disadvantage: I understand you do proceed upon three particulars, either signing the first Warrant for constituting the Court; To my remembrance I know not of it, if my hand was to it, I have forgot.

*Counsel.* Your hand is not to that, but we mean your hand is to the Warrant for execution———pray shew it him, (It was shewn him.)

*Downes.* My Lord, how to reconcile that which hath been said before; with this that comes after, I leave it to you. I am totally at a loss. When those times were, how impetuous the Soldiers, how not a man that durst either disown them, or speak against them. I was threatned with my very life, by the threats of one that hath received his reward, I was induced to it. Certainly, my Lord it, doth argue that there was not malice predominant; Love and Hatred cannot be at the same time in one person. Design, my Lord, what should be my design? a poor ordinary mean man. Surely my Lord, I could not design any great matters or places. I knew my self unfit, I humbly beg you would give me leave to tell you a little what I got.———

*Mr. Sol. Gen.* By your favour, my Lord, the Prisoners at the Bar may say what they will, by way of extenuation, but we expect that when they enter upon these Discourses they will save your Lordships time and ours, by a publick confession and evidence of sorrow. We cannot spend so long time to hear these long Discourses, we will rather prove it against every man singly.

*Downes.*

*Downes.* I will trouble you no further, I do acknowledge all, I humbly submit and beg your favour, and leave my self upon my Countrymen the Jury, and beg the King's mercy specially. — Pray spare me one word, that you would hear but a Witness or two unto that business.

*Counsel.* He doth confess he sate and signed, we beleive he is sorrowful, and against his Conscience he did sign, and that he did it out of a fear and from a threat, that he was overawed (so was the Hangman too:) but after he had apprehended this sorrow, and declared his Judgment upon the fact, he signed the Warrant.

*Downes.* My Lord, I do humbly beg his Majesties mercy, I came in upon the Proclamation.

*Vincent Potter.* My Lord, my condition requires ease for my Body, *(he had a fit of the Stone upon him at that same time)* I pray that the passing the Sentence for execution may be suspended.

*L. Ch. B.* The Execution must be suspended, for you are within that Qualification.

*Potter.* I desire only this, I am not in a condition to declare what I know and would speak, I am mighty full of pain, if I am under that Qualification, let me rest under that.

*Counsel.* Do you confess the Indictment, or will you put us to prove it.

*Potter.* I am one that came in.

*L. Ch. B.* It is thus with you, whether or no did you sit, sign, or act in this High Court of Justice against the King?

*Potter.* I will deny nothing, I confess the fact, but did not contrive it. I am full of pain.

*Lord Chief Baron.* According to the demerit of the Case in Law, you must receive Judgment here, but no execution of that Judgment shall be, until the King by advice and consent of Lords and Commons shall order the execution of it, you are to be tried now. Do you confess you signed the Warrant for execution of the King?

*Potter.* I do confess it, my Lord.

*Counsel.* We do accept it.

*Potter.* I beseech you let me go to ease my self.

*Lord Chief Baron.* Officer, set a Chair for him. (*which was done.*) *Mr Potter* sit down.

*Aug. Garland.* May it please your Lordship, I came here this day intending to have waved my plea, and referred my self to this honourable Court, to be recommended to the Kings mercy and the Parliament: But hearing of some scandal upon me more then ever I did hear, till within these few dayes, I shall desire your favour in hearing of my Trial.

*Mr. Sol. Gen.* My Lord he saith well, for if he had confessed the Indictment, we should not have accepted it. [*Call the Witnesses.*]

*Garland.* I do confess this, I sate, and at the day of Sentence signed the Warrant for Execution.

*Mr. Sol. Gen.* And we will prove that he spat in the Kings face.

*Gar.* I pray let me hear that, Otherwise I would not have put you to any trouble at all.

——— *Clench* sworn.

*Counsel.* Do you know the prisoner at the Bar, *Augustine Garland.*

*Clench.* I know him very well.

*Counsel.* Tell my Lords and the Jury how you saw him behave himself, to our Sovereign Lord the King when he was at the Bar.

*Clench.* I was that day at *Westminster-hall* when the King had sentence they hurried the King down, this *Mr. Garland* came down stairs by them, towards the bottome of the stairs he spit in his face at a little distance.

*Counf.* Do you believe he did it on purpose, upon your oath?

*Clench.* I suppose he did it somewhat suspiciously in that way; I did see the King put his hand in his left pocket, but I do not know whether the king wiped it off.

*Mr. Sol. Gen.* The King wiped it off, but he will never wipe it off so long as he lives: He hath confessed that he sate, that he sentenced, and that he signed: We say he contrived it at the beginning, and at last bid defiance to the King, I shall desire he may be remembred in another place

*Garland.*

*Garland.* I do not know that I was near him at that time, I do not remember this passage. I am afraid he is an Indigent person. If I was guilty of this inhumanity, I desire no favour from God Almighty.

*L. Ch. B.* I will tell you this doth not at all concern the Jury, but this Circumstance possibly may be considered in another place.

*Gar.* I refer my self whether you be satisfied, that I did such an Inhumane act, I submit that to you ; I dare appeal to all these Gentlemen here (looking upon the prisoners) or any other whether they ever heard of it, nor I was never accused for such a thing till a few dayes since ; but I wave my plea, and refer my self to the Court : Now, my Lord, this is the truth of my Case, there is that honorable Gentleman, the Speaker of the House of Commons, knows, I lived in *Essex* in the beginning of these troubles, and I was inforced to forsake my habitation, I came from thence to *London*, where I have behaved my self fairly in my way. Afterwards in 1648 I was chosen a member into the Parliament ; in *June* 1648 I came in a Member of the Parliament. My Lord, after the division of the House, by the insolency of the Soldiery ; some came to me, and desired me, that I would go to the House, I was then at my Chamber at *Lincolns-Inne*, I forbore a Week and more ; said I, I do not expect to be admitted, for they look upon me as another person ; said they, If you will go, you shall have no contradiction ; I went, and went in, when I was in, the first business that came was the business of Tryal of the King, and it was put on me to be Chair-man for bringing in this Act for Tryal ; I did not know how to contradict that power or authority (be it what it will) but I must obey (I fear my ruine will follow it : ) in that respect my Lord, when I came there, I was forced to run through out, what they had imposed upon me. — — Having seen me, I could not shrink from them for fear of my own destruction, and thereupon I did go in, and did that which I have confessed to your Lordships, not out of any malignity to his Majesty. I had never any disrespect to him in my life ;

My Lord, I did not know which way to be safe in any thing: without Doors was misery, within Doors was mischief. I do appeal to all that had any thing to do with me, that I never did any wrong to any that was of the Kings party, but helped them as I was able. My Lord, when the Government was thus tossed, and turned, and tumbled, and I know not what, and the secluded Members came into the House, I knew not what to do in that case neither. As soon as this Parliament had declared the Treaty, which was the eighth of May, the ninth of May I appeared before the right honourable the Lord Mayor of London, and did claim the benefit of his Majesties gracious Declaration, and to become a Loyal Subject, as in my heart I alwayes was; and my Lord Mayor being there, I hope he will testifie, that as soon as I heard of the Proclamation, I rendered my self according to the Proclamation; My Lord, this hath been the carriage of me, being alwayes under fear and force, I refer my self to your Lordships.

*Symon Meyne.* When I was last here, my Lord, that I did then speak *Not guilty*, was not as to the matter of fact, but my Conscience telling of me, that I had no malice or ill intention to his Majesty, that was the reason. For Matter of fact I shall acknowledge what I have done, and lye at his Majesties feet for mercy. I am an ignorant weak man in the Law, I will confesse the fact.

*Counf.* Did you sign the Warrant for summoning that Court, and did you sign the Warrant for Execution of the King?

*Meyne.* Id id sit in Court?

*Counfel.* Did you sign the Warrant for Execution?

*Meyne.* My Lord, I knew not of the Kings bringing up, I never was at any Committee.

*Counfel.* We do not ask you that. Look upon the Warrant, and see if your hand and seal be not to it?

*Meyne.* My Lord, it is my hand.

*Counfel.* Then my Lord we have done.

*Meyne.* My Lord, I acknowledge it is my hand. By what importunity it may be known to some here, I was very un-

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willing to it, I was told, What fear was there, when forty were there before, and twenty was of the *Quorum*? I was thereupon drawn in to set my hand to it. My Lord I never plotted nor contrived the business. There was a Gentleman that told me, if I did offer to speak in the House (pluckt me down by the Coat, and he told me I should be sequestred as a Delinquent (the name of this person I shall omit) saith he, you will rather lose your estate, then take away the King's life. I leave it with you.

*James Temple.* At the last time I pleaded to the Indictment *Not guilty*, but I shall now desire to see my hand, and if it be my hand, I must confess all, circumstances must follow. (The Warrants being shewn him) I do acknowledge it is my hand to both, I never did consult concerning the Court.

*Counsel.* There are some worse then he, but he is bad enough.

*James Temple.* I refer my self to the King and Parliament, and presented a Petition, which was received by the Court.

*Peter Temple.* When I was here the last time, I pleaded *Not guilty* — the reason was, because there are divers things in the Indictment, that my Conscience tells me I am not guilty of, for I had not a malicious or trayterous heart against the King. To save your Lordships time, I will confess what I am guilty of. I was in the Court, sate there, if I see my hand, I shall confess it.

*Counsel.* Were you there when Sentence was given?

*Temple.* Yes Sir.

*Counsel.* Shew him the Warrants (which being shewed him) I acknowledge they are my hand, and refer it to your Lordships.

*Counsel.* Mr. *Wayte*, you heard the Charge read against you, what say you to it?

*Thomas Waite.* Truly my Lord, when I was here last, I pleaded not guilty, I humbly desired then your Lordships to hear me a word or two. You promised me then I should be heard, I shall desire to speak for my self.

*Lord Chief Baron.* God forbid but you should.

*Mr. Sol. G.* By your Lordships favour we must speak first if he will confess the fact, he may speak what he will. Did you sit in the Court?

*Waite.* Yes.

*Counsell.* The day of Sentence?

*Waite.* Yes.

*Counsell.* Is your hand to the Warrant for Execution?

*Waite.* I know not, pray let me see it. (It was shewn him) My Lord I confess it is like my hand, but I do not remember it.

*Counsell.* If you do not acknowledge it, it will be proved.

*Waite.* Truly my Lord, I do believe it is my hand.

*Counsell.* Then the Jury will not doubt it.

*Waite.* But I desire to be heard. I am loath to trouble you much, I will tell you how I was brought into this business. My Lord, I was a Member of that House, that erected this Court, when the Treaty was in the Isle of *Wight*. Immediately after the Army came up, I was utterly against that Act in the House. When the Army came up to purge the House, I was much troubled at it, I desired to know the Charge they had against them. Two or three dayes after I did move, and there were other Gentlemen that did move to know what Charge there was. They sent word we should have a Charge in due time, we sent and none came, but said we should have it in due time: I went to those worthy Gent. to see them in prison, and seeing nothing would be done, I took my leave and made account to see them no more, and went down into the Country to *Leicester-shire*: I was sent for up several times. I would not come with threats upon pain of Sequestration. My Lords, there were Petitions going up and

and down in the Country for bringing the King to that business, which was against my conscience. I went to *Wiltshire*, I heard there were some things working there, I used my interest, and I thank God I stopt it. I came then to *London*, when all these things were destroyed I came to *London*: the day before the Sentence was given, I went to the House (thought nothing) some were sent to the *Tower*, and I was sent for to the House, and my name was in the Act unknown to me, but one sent a Note in my Lord *Gray's* Name, that he would speak with me; I went to him, and I said, my Lord, what would you do with me? saith he, I did not send for you. Thereupon *Cromwell* and *Ireton* laid hold on me, said they, We sent for you, you are one of the High Court. No, said I, not I, my Judgement is against it: they carried me to the Court. When the King desired to speak with his Parliament, I rising up, one told me I must not be heard, for the President was to give Judgement, and said there was an order that none should speak in Court. Mr. *Downes* did move, and they did adjourn the Court, and I was glad I got out, *Cromwell* laughed, and smiled, and jeered in the Court of *Wards*. I hope your Lordship will be pleased to consider, I was no Contriver, no Soldier that put the force upon the House, that erected the Court; None of the Law-makers, or did any thing maliciously against the King. My Lord, I was looked upon with an evil eye, for regarding the King's friends in the Country: *Gray* he told me the King would not die, I hope he will not, said I. The next day on *Monday*, I went to the House, they were labouring to get hands for his Execution at the Door. I refused, and went into the House; saith *Cromwell*, those that are gone in shall set their hands, I will have their hands now. That night I went to the Lord *Grays*, and he said, I am afraid they will put him to death. I said so also. My Lord, I have been a great sufferer, I was drawn in, trapan'd into it, since being a friend to the Kings friends, I am almost ruined in my estate; I beseech your Lordships make the best interpretation. I hope you will believe I was no Contriver, I humbly lay hold upon the Kings mercy and favour. I came in upon the Procla-

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mation, I pray that this Honourable Court, will prefer my Petition to the King and both Houses of Parliament, which the Court then received.

*William Heveningham.* My Lord, in 1648. we were under a force, under the tyranny of an Army; they were our Masters: for a malicious and a traiterous heart I had not. I do absolutely deny the signing the Warrant for summoning the Court; and also that Warrant for execution of the Kings at the time of sealing, I had that Courage and Boldness that I protested against it.

*Counsel.* We do not question him for that, but for sitting in the high Court of Justice, and that upon the day of the sentence, do you deny that?

*Heveningham.* My Lord, I cannot say positively.

*Counsel.* If you deny the matter of fact, it must be proved.

*Heveningham.* I cannot say positively, but it may be I might.

*Counsel.* Either say positively you did, or else let the Witnesses be call'd.

*Heveningham.* Truly, my Lord, I think I did, but my after-actions —

*Lord Chief Baron.* Mr. Heveningham, that shall be considered.

*Counsel.* My Lord, to sit upon the day of Sentence was high Treason in it self, and is an evidence of Compassing and Imagining the Kings death.

*Hev.* I shall lay hold of the Declaration, I came in upon the Proclamation, I pray your Lordships to interceed for me to the King, and both Houses of Parliament, I pray the mercy of this Court.

*L. C. B.* You of the Jury, they have all confessed, and therefore you may go together.

*Simon Meyne.* My Lords, I have forgot my Petition, it is at my lodging, I desire I may send it at night.

*John*

*John Downes* and *Peter Temple* prayed the like favour.

*L.Ch.B.* Do, send them, they shall be received.

The Jury having consulted together a certain time, they went to their places.

*Clerk.* Gentlemen, are you agreed of your verdict?

*Jury.* Yes.

*Clerk.* Who shall say for you?

*Jury.* Our Fore-man.

*Clerk.* *John Downes*, hold up thy hand ——— Look upon the prisoner, how say you, is he guilty of High Treason whereof he stands indicted, and hath been arraigned, or not guilty?

*Forem.* Guilty.

*Clerk.* Look to him Keeper. What Goods and Chattels, &c.

*Forem.* None to our knowledge. And the like verdicts at the same time passed in the same manner against *Vincent Potter*, *Augustine Garland*, *Symon Meyne*, *James Temple*, *Peter Temple*, *Thomas Waite*, and *William Heveningham*.

*Potter.* I hope I may be freed from Irons, I am in pain, and a man of bulk.

*L.Ch.B.* We can give no order in it, we must leave it to the Sheriff.

*Potter.* I begg it of you, my Lord.

*L.Ch.B.* We must leave it to the Sheriff. *Mr. Heveningham*, You must withdraw from the Bar.

*Clerk.* Officer, bring down *VValler*, *Fleetwood*, *Hacker*, *Axtel*, *Hulet*, *Penington*, *Marten*, *Millington*, *Titchborne*, *Roe*, *Lilburne*, *Smith* and *Harvey*, and set them to the Bar, which was done accordingly.

*Clerk.* *Hardress VValler*, hold up thy hand, thou hast been Indicted and found guilty of High Treason, what canst thou say, why judgment should not pass on thee to dy according to Law?

*VValler.* My Lords, I am now it seems Convicted by Law, and

and so adjudged: Your Lordships the other day on my desire told me I might have liberty to speak upon my trial. I must now beg the like upon a condemned person,

*L.Ch.B.* You are Convicted, not Condemned.

*Waller.* My Lords I was the first that pleaded Guilty, I bless God that he gave me a heart to do it, I find most peace in the doing of it; and since there is nothing left but hopes of Mercy, I humbly submit it to your Lordships to hear me in this sad condition, that that may make me seem more capable of mercy. I have, my Lords, been so unhappy to have been transplanted out of my Country these thirty years, I have been but once these eleven years in England, this must needs make me a stranger.

*L.Ch.B.* I must not hinder you, because it is for mercy that you plead, but consider with your self whether it will not be better to give it in a Petition: I leave it to you, we can do nothing in point of Mercy, but Judgment.

*Waller.* Onely this (My Lord) whether I am not the more capable of your mercy?

*L.Ch.B.* That you may understand it, the Act of Indemnity of Parliament hath excepted you; yet upon some qualifications, we are to proceed according to Law, that is, to go to Conviction and Judgment. The Act sayes, that after Judgment there shall be no execution, but that it shall be suspended till a further Act of Parliament to be passed for that purpose; so that in the mean time we are to proceed no further then Judgment. That which concerns Mercy, is referred to another place. If you please to say any thing to satisfy us, or to go by way of Petition, it must be left to you, but what you say for mercy is nothing to us.

*Waller.* I humbly thank your Lordships for this clear and noble dealing, and withall, I would beg that these people that are witnesses of my shame and guilt, may know that it was a force and temptation upon me; I shall not insist much, I have said, that I did plead guilty, which was most safe to my own Conscience, yet I should make it appear, that I did appear more to preserve the King from Tryal and Sentence, then any other.

Lord

*Lord Finch.* Sir *Hardress Waller*, I have heard of late of your sorrow, which I was glad to hear of, because you are my kinsman, both by your Father and Mothers side, and also my Country-man; I was glad to hear of your great penitence for that horrid crime, and I would have been glad to have seen it now; advise with your self whether you do your self any good in speaking to extenuate, when you know there is no man against whom there are such circumstances of aggravation as against you; consider whether a publick penitence would not be more proper.

*Waller.* I beseech you report me both to his Majesty and Parliament, and receive me into your grace, as being penitent, truly penitent: To say so now were a small thing, for the fear of the punishment may procure it, but I have been more penitent when no eye hath seen me but God; when I never imagined to be questioned for this sin, then my heart hath yerned in the business; but I shal not trouble your Lordships, God holds forth Mercy, his Majesty holds forth Mercy, the Parliament holds forth Mercy. My Lords, let me say something to you (though it be but a word) of the violence, and force of temptation; you may have been under it, or may come to it; Christ himself was under it; we find that faithful *Abraham* by the power of a Temptation delivered up his wife to commit Adultery, which scarce a Heathen would; we finde that valiant *Peter* denied his Master, righteous *Lot* committed incest. None abhors this fact more then I do; I have done it so long beforehand, I need not be afraid to speak it in the face of the Judge of all men, that is all I shall say. I rendred my self three times; I had as much opportunity to make my escape as any person whatsoever.

*Lord Chief Baron.* It is understood, Sir *Hardress*.

*Clerk.* *Isaac Pennington* hold up thy hand, thou art in the same condition as the former, what canst thou say for thy self why judgment, &c.

*Pennington.* My Lord I have said what I have to say, and shall not trouble your Lordships any further.

*Clerk.* *Henry Marten* hold up thy hand, thou art in the same condition, what canst thou say for thy self why Judgment, &c.

*Clerk.*

*Marten.* I claim the benefit of the Proclamation.

*Clerk, Gilbert Millington,* hold up thy hand, thou art in the same condition, what canst thou say for thy self why Judgment, &c.

*Millington.* I shall not trouble you with long discourfes, I will say no more but this, I have made a publick resentment of my sorrow for this offence formerly, and many times. I shall now desire no more, but humbly beg that I may have the benefit of the Proclamation, and pray his Majesties most gracious Pardon.

*Clerk, Robert Tichborne,* hold up thy hand, thou art in the same condition, what canst thou say for thy self why Judgment, &c.

*Tichborne.* My Lord, I will not trouble you with any repetitions, I have made my humble request before, I leave it with you.

*Clerk, Owen Roe,* hold up thy hand, thou art in the same condition, what canst thou say for thy self why Judgment, &c.

*Roe.* My Lord, I have no more to say then I said before.

*Clerk, Robert Lilburn,* hold up thy hand, thou art in the same condition, what canst thou say for thy self why Judgment, &c.

*Lilburn.* I shall refer my self without further trouble to the Court, my Lord, I beg the benefit of the Proclamation.

*Clerk, Thomas Waite,* hold up thy hand, Thou art in the same condition, what canst thou say for thy self why Judgment, &c.

*Waite.* I can declare no more than what already, my heart is sorry for what I have done, I beg the benefit of the Proclamation.

*Clerk, Edmond Harvey,* hold up thy hand, thou art in the same condition, what canst thou say for thy self why Judgment, &c.

*Harvey.* My Lords, I have no more then what I have said before.

*Clerk,*



*Clerk, John Downes*, Hold up thy hand, thou art in the same condition, what canst thou say for thy self why Judgment, &c.

*Downes*. I shall not trouble you any further, I shall desire the benefit of his Majesties Proclamation.

*Clerk, Vincent Potter*, hold up thy hand, thou art in the same condition, what canst thou say for thy self why Judgment, &c.

*Potter*. My Lord, I do not know Law, I understand it not; I am not in a condition to speak what I would have willingly spoke; I desire that God would have mercy, and I look for mercy from God, *and wept*.

*Clerk, Augustine Garland*, Hold up thy hand, thou art in the same condition, what canst thou say for thy self why Judgment, &c.

*Garland*, I humbly desire your Lordships charitable opinion of me: notwithstanding what has been objected against me, I humbly refer my self to the Parliament.

*Clerk, George Fleetwood*, hold up thy hand, thou art in the same condition, what canst thou say for thy self why Judgment, &c.

*Fleetwood*. My Lord, I have already confessed the fact, I wish I could express my sorrow, *and wept*.

*Clerk, James Temple*, hold up thy hand, thou art in the same condition, what canst thou say for thy self why Judgment &c.

*J. Temple*. My Lord I can say no more, I beg the benefit of the Proclamation.

*Clerk, Simon Mayn*, hold up thy hand, thou art in the same condition, what canst thou say for thy self why Judgment, &c.

*Mayne*. I have told you before, my Lord, I have no more.

*Clerk, Peter Temple*, hold up thy hand, thou art in the same condition, what canst thou say for thy self why Judgment, &c.

*Peter Temple.* My Lord I came in upon the Proclamation, and I humbly beg the benefit of it.

*Cl. Tho. Waite* hold up thy hand, thou art in the same condition, what canst thou say for thy self?

*Waite.* My Lord, I refer it to your Lordships.

*Clerk. Francis Hacker,* hold up thy hand, thou art in the same condition, what canst thou say for thy self why Judgment, &c.

*Hacker.* My Lord. I have nothing to say, but what has been before your Lordships.

*Clerk. Daniel Axtel,* hold up thy hand, thou art in the same condition, what canst thou say for thy self why Judgment &c.

*Axtell.* May it please your Lordships, my case differs from the rest of the Gentlemen.

*L.Ch.B.* I would be loth to hinder you, but I must tell you, that what hath been over-ruled must not be spoke to, if you have any thing against the Indictment, matter of Law, go on.

*Axtell,* I have one thing more that I did not then mention.

*L.Ch.B.* If it tend not as an exception to the Indictment, it is not to be heard.

*Axtell.* My Lord, then I shall apply my self to that point. I humbly conceive my Lord, that my overt acts were not sufficiently set down in the Indictment, as might be sufficient in Law to attain me of high Treason, I do not remember that the Overt act that was applyed to me in evidence was charged in the Indictment, I have onely that exception, because of the insufficiency of that point. In the next place, my Lord, there is not the right additions to my name, there are many persons of the same name, I am arraigned by the name of *Daniel Axtel of Westminster* in the County of *Middlesex*, Gentleman. I think none knew me to live there, and inhabit there.

*Lord Chief Baron.* I would not interrupt you, this is past, you should have made your exception to that as Master *Marten* did before concerning his name, that should have been first

first done, you have appeared and pleaded to that name, and it was, *late of Westminster.*

*Axtell.* My Lord, I have this to speak in arrest of Judgment, that the Indictment being grounded upon that statute of the twenty fifth of *Edward* the third, it is either mistaken or not pursued; my Lords, I did yesterday give you the Judgment of the Lords and Commons concerning the statute in relation to my case, I say the Statute was mistaken, or not pursued.

*Lord chief Baron.* That was offered before Sir, as to the matter of it.

*Axtell.* My Lord, I think not, I am mistaken if it were.

*Lord Chief Baron.* Then open it.

*Axtell.* My Lord, I do not find in that statute, that words are an overt act, words only.

*L.Ch.B.* This was over-ruled. The things that you objected were these, That there is not any overt act that is laid; that could be applicable to your case: if it were not particularly applicable ( you are found guilty by the Jury ) it would be nothing: But there is an overt act, you were present at the Court, bearing the Souldiers, sending for an Executioner: but for words, if one man should say, here is the King, go and kill him, this is Treason; but you were guilty in all according to Law. You being there and doing this, you were not guilty onely of the words, but of all that was done, there is none but Principals in Treason. What we say and do to you, we well know we must answer before God Almighty for it.

*Axtell.* I have but one word more, truly I do appeal to God before whom I shall have another tryall, I do not find my self guilty either of consulting, contriving, or having a hand in the death of the King, I am innocent, and I pray God that my innocent blood——

*Lord Chief Baron.* Pray Sir——

*Axtell.* May not cry——

*Lord Chief Baron.* You are now to speak in arrest of Judgment.

*Axtell.* I have no more, I pray your Lordships favour and mercy to me.

*William Hulet, alias Howlet,* hold up thy hand, thou art in the same condition, what canst thou say for thy self why Judgment &c.

*Hulet.* Truly my Lord, I have little further to say, If you had been pleased to give me further time, I should have cleared my self, I call God above to witness upon this account, that I am as clear as any man, I submit to the mercy of the Court.

*L. Ch. B.* For that I do (but cannot positively say it) that at your request (notwithstanding the Judgment will pass against you) there may be some time till his Majesties pleasure be known before any execution will be upon that Judgment against you, in the mean time we must proceed according to Law and Justice.

Proclamation for silence whilst Judgment is giving.

*The Lord Chief Barons speech before the Sentence pronounced against the aforementioned Prisoners found guilty.*

**Y**OU that are Prisoners at the Bar, you stand here in several Capacities, yet all of you persons convicted of the detellable and execrable murder of our Sovereign Lord King *Charles* the first, of blessed memory. Mistake me not, I do not say that you are all of you guilty of executing the fact, but in Law and in conscience (*pro tanto*, though not *pro toto*) you are guilty of it, in that you prepared the way and means to it, in that you brought his head to the block, though you did not cut it off. You are here in three sorts, and I must apply my words accordingly, and truly I do it with as much sorrow of heart as you have, many of you being persons of liberal education, great parts, I say you are of three sorts. There are some of you that though the Judgment of death is to pass against you, by his Majesties grace and favour, and the mercy under him, of the two houses of Parliament, Execution is to be suspended untill another Act of Par-

Parliament shall pass to that purpose, that is, all of you but three; for those three, the one of them that was last called, *William Heveningham*, he is in another capacity too; for I presume some time will be given to him to consider of something relating to him, before any order will be given for his execution; there are two others of you, and that is *Dan. Axtel* and *Francis Hacker*, and for you, as it yet stands before us, there is no mercy, there is no room for it: but though you be in these several Classes, yet what I shall say will concern you all, because I do not know how it may fall with you, none of us knows how soon we may come to our deaths, some (probably) sooner then others, all must come to it: you are now before the Tribunal of man, but that is for Judgment for your offence here, but there is another Judgment hereafter, and a Tribunal before which both you and we must stand, every man here, and we must receive according to our work; those that have done ignorantly, by a serious and unfeigned repentance, God Almighty may shew mercy unto them. He hath reserved mercy even for the greatest offenders. Saint *Paul* himself when he persecuted Christ ignorantly, upon his repentance he found mercy; those of you that are not yet convicted in your consciences of the foulness of this horrid fact, look into your Consciences a little more, and see if it be not a great Judgment for your former offence that you should be given over to a reprobate sense; let me tell you, a seared Conscience, a bold confidence not upon good grounds, is so far from securing the Conscience, it may stifle perhaps the mouth of Conscience, but it will rise up more in Judgment against you. Here you have made your defence, and I do not blame you for it; life is precious, but remember the thoughts of your hearts are open, whether you did it ignorantly, covetously, or to get the Government into your own hands, that I am not able to search into, God and you only know that; give me leave to say something, perhaps I have repeated it by parts before. God is my witness what I speak, I speak from mine own Conscience, and that is this, Gentlemen, because I saw it stuck with some of you,

that is, that whatsoever the case was, that by the Laws of these Nations, the fundamental Laws, there could not be any coercive power over your King. I speak it again, because I would as near as I could, speak the whole truth, and would not mislead any man in such a case; remember *that no power, no person, no Community or body of men, (not the people, either collectively or representatively, have any coercive power over the person of the King by the fundamental Laws* : for that, Gentlemen, I shall begin to shew you that which all of you might remember, that is, your oaths of Allegiance and Supremacy, and to add to this that obligation which all this whole Nation did oblige themselves to, by the Parliament, without question then rightly represented and in being, the first of K. *James*; whereby to shew you, that not only persons, but the Body politick of the Nations, not only the single Members, but the Members in both houses of Parliament, were loyal and obedient subjects to the King, their head, even to yeeld a natural and humble Obedience, and Allegiance. I told you the Act of the 1. of K. *James*, when K. *James* came first into Engl. *We the Lords and Com. representing the whole People of the Nation,* (the very words of the Act are *so primo Jacobi*, Chapter the first,) *Representing the whole Body of the Nation, do acknowledge an humble natural Leige Obedience to the King, as Supreme, his Heirs and Successors. And in the name of themselves and all the people, humbly submit themselves, untill the last drop of their blood be spent in defence of the King and his Royall posterity*; and therefore they did oblige themselves, and all the People of *England*, as far as they could represent them, (the words are more full then I can expresse them) and indeed it is so dark I cannot read them. They did acknowledg, to be bound to him and his Imperial Crown. Remember these were not words of Complement, you shall find that they all of them, and so did so many of you as were Members of Parliament, yea all of you, before you came into the House of Commons, did take the Oath of Allegiance, which was made after this Recognition, the third and fourth of King *James*, or otherwise, were not to be Members.

bers. What was that Oath of Allegiance that you took? it was, That you should defend the King his Person, (that is in 3 *Jacobi*, Chapter the fourth, his Crown and Dignity.) What was it? Not only against the Pope's Power to depose, but the words are, *or otherwise*: look into the Act, and reflect upon your Conscience, and you shall find that all did swear to defend the King, his Crown and Dignity, and there it is called *Imperial Crown*. I would have you lay this to heart, and see how far you have kept this Oath. Gentlemen, In the Oath of Supremacy which you all took therein, you did further acknowledg that the King was the only Supream Governour of this Realm: Mark the words, I will repeat them that you may lay it to heart, you that have more time to apply it to your Fact; and you that have less time, for ought I know, you have reason to consider what I have to say; you sware then, That the King by the Oath of Supremacy, which all of you have taken, or ought to have taken; if any of you have not taken it, yet notwithstanding you are not absolved from the obligation of it; but most of you did take it, there you sware that the King is the only Supream Governor of this Realm; and you sware there, that you would defend all Jurisdictions, Priviledges, Preeminencies and Authorities granted or belonging to the King's Highness, His Heirs and Successors, or united and annexed unto the Imperial Crown of this Realm. For the first; If the King be Supream, then there is no co-ordination. *Non habet majorem, non habet parem*, that (word *Imperial Crown*) is at least in nine or ten several Statutes; it is the very word in this Act that was made lately in pursuance of former Acts concerning Judicial Proceedings. And so in the time of King *Charles*, they acknowledged him to be their Leige Sovereign; I say that word *Supream*, and so the word *Imperial Crown*, is in the first of Queen *Elizabeth*; the third, and the eighth of *Elizabeth*; the twenty fourth of *Henry the Eighth*, Chap. 12. there it is said this Kingdom is an *Imperial Crown, subject to none but God Almighty*. Before these times, you shall find



in the sixteenth of *Richard* the Second, the Statute of *Premunire*, the Crown of *England* subject to God alone. I will go higher, *William Rufus* (some of you are Historians, and you shall find the same in *Eadmerus*, and also in *Matthew Paris*, shortly after *William Rufus* his Time) when he wrote to the Pope, he challenged, and had the same liberty in this Kingdom of *England*, as the Emperor had in his Empire, (mistake me not, I speak only as to the Person of the King) I do not meddle of Rights between the King and Subjects, or Subject and Subject; you see in this Case concerning the Death of his Majesty's dear Father, and our Blessed Sovereign of happy memory, he doth not judg himself but according to Law, that which I assert is as to the Person of the King, which was the priviledg of Emperors as to their Personal Priviledges, if he had offended and committed an Offence, he was only accountable to God himself. I will come back to what I have said; You swore to be faithful to the King as Supreme. The King of *Poland* hath a Crown, but at his Oath of Coronation, it is conditioned with the People, That if he shall not govern according to such and such Rules, they shall be freed from their Homage and Allegiance. But it differs with our King, for he was a King before Oath. The King takes his Oath, but not upon any condition; this I shew you, to let you see that we have no coercive Power against the King. The King of *England* was anointed with Oil at his Coronation, which was to shew that Absolute Power, (I do not say of Government) but of being accountable to God for what he did: The Law saith, *The King doth no injury to any Man*; not but that the King may have the imbecilities and infirmities of other Men, but the King in his single Person can do no wrong: but if the King command a Man to beat me, or to disseize me of my Land, I have my remedy against the Man, though not against the King. The Law in all Cases preserves the Person of the King to be untouched, but what is done by his Ministers unlawfully, there is a remedy against his Ministers for it; but in  
this



this Case, when you come to the Person of the King, what do our Law Books say he is? they call it, *Caput Reipublicæ, salus Populi*, the Lieutenant of God; and let me tell you, there was never such a blow given to the Church of *England* and the Protestant Religion. There was a Case, and that of the *Spencers*, you shall find in the 7<sup>th</sup> Report of the Lord *Cook*, in *Calvin's Case*, that Homage is due to the King in his Politick Capacity; and then they made this damnable Inference, That therefore if the King did not demean himself as he ought, that he should be reformed *pure assertee*, by asperity, sharpness or Imprisonment: but these were condemned by two Acts of Parliament in Print, that they could not do that even in that Case, one was called the Banishment of *Hugh Spencer*; and the other is in 1. *Edward 3.* upon the Roll. My Masters, In the first of *Henry the Seventh*, you shall find it in the printed seven Books, he saith, *That as to the Regality of his Crown, he is immediately subject unto God.* Mark the Doctrine of the Church of *England*, Gentlemen, I do not know with what Spirit of Equivocation any Man can take that Oath of Supremacy; You shall find in the Articles of the Church of *England*, the last but one or two; it is that Article which sets forth the Doctrine of the Church of *England*; they say, That the Queen, and so the King, hath the Supreme Power in this Realm, and hath the chief Government over all the Estates of the Realm, the very words are so; this was shortly after making the Act; the Articles were in 1552, and she came in 1558, or 1559; it is to shew you the King hath the chief Government over all the Estates within the Nation; and if you look upon it, you shall find it was not only the Judgment of the Church, but of the Parliament at the same time. They did confirm this Article so far, that they appointed that no Man should take or be capable of a Living, but those that had taken that Oath. God forgive those Ministers that went against it. The Queen and the Church were willing that these should be put into Latin, that all the  
World

World might see the Confession of the Church of England, and of the People of England, you may reade it in *Cambden* : I have told you how and wherein the chief Power consisted, not in respect the King could do what he would ; no, the Emperors themselves did not challenge that, but this they challenge by it, That they were not accountable to Man for what they did : No Man ought to touch the Person of the King, I press it to you in point of Conscience ; you see in the Scripture, in *Psalms*. 51. the Psalm of Mercy, whereby we ask pardon of God for our great Offences ; I think none of you in this condition, but will join in this ; you know the Adultery and Murder that *David* committed, this penitential Psalm was made for that ; What doth he say ? *Against thee, thee only have I sinned, &c. tibi soli peccavi, Domine* ; not because he had not sinned against Man, for 'tis plain, he had sinned both against *Bathsheba* and *Uriah* too : But because he was not liable to the Tribunal of Man, he was not bound nor accountable to any Man upon Earth. And now, my Masters, I beseech you consider, that some of you for ought I know suddenly, and some of you for ought I know not long after, all of us we do not know how soon, must come to make a right account to God of what we have done. After this Life you enter into an Eternity, an Eternity of Happiness or of Woe ; God Almighty is merciful to those that are truly penitent ; the Thief upon the Cross, and to all that are of a penitent heart. You are Persons of education, do not you go on in an obstinate perverse course, for shame of Men, even this shame which you now have, and which you may have when you come to die, a sanctified use may be made of it, you pay to God some part of that punishment which you owe to him for your sins. I have no more to say, but the next thing I have to do is, to give the Sentence, the Judgment ; which truly I do with as unwilling a heart as you do receive it. You Prisoners at the Bar, the Judgment of the Court is this, and the Court doth award that, &c. And the Lord have mercy on your Souls.

Court adjourned till *Friday* morning seven a Clock.

*Friday*

Friday, Octob. 19. 1660.

Set *William Heveningham* to the Bar.

*Serjeant Keeling.* May it please your Lordships, the Prisoner at the Bar, *William Heveningham*, hath been indicted of High-Treason, for compassing and imagining the Death of the late King of blessed memory; he has been tried, the Jury has found him guilty: I do humbly move your Lordships in the behalf of the King, that you will proceed to Judgment.

*Clerk.* *William Heveningham*, hold up thy hand, what canst thou say for thy self, why Judgment, &c.

*Heveningham.* My Lords, I have nothing more to say than I said formerly, only I plead the benefit of the Proclamation, and cast my self upon the Mercy of our most gracious Sovereign, and desire your Lordships to be Mediators on my behalf.

*Lord Ch. Baron.* By the Act of Indempnity (of which you claim the Benefit, and we ought to take notice of it) we are to proceed to Judgment, but no Execution of this Judgment is to be until by another Act of Parliament by consent of the King it shall be ordered. And therefore I need not speak any more of that, or any Exhortation to prepare your self for Death; our work is only to give Judgment. The Judgment of the Court is this, and the Court doth award, that you the Prisoner at the Bar be led back to, &c. And the Lord have mercy upon your Soul.

Thus having given the Reader a most impartial view of every Passage occurring in this so solemn and legal Indictment, Arraignment, Trial, and Condemnation of these twenty nine black Regicides, with their several Pleas and Defences in their own words. It may be also some additional satisfaction, to let the Reader know the time and man-

ner of the Death of such of them who were according to the Sentence Executed. For their last Discourses and Prayers, as they were made in a Croud, and therefore not possible to be taken exactly; so it was thought fit rather to say nothing, than give an untrue account thereof; chusing rather to appear lame, than to be supported with imperfect assistances.

ON Saturday the 13th of October 1660, betwixt nine and ten of the clock in the Morning, Mr. *Tho. Harrison*, or, Major General *Harrison*, according to this Sentence, was upon a Hurdle drawn from *Newgate* to the place called *Charing-Cross*; where within certain Rails lately there made, a Gibbet was erected, and he hanged with his face looking towards the Banqueting-house at *Whitehall*, ( the place where our late Sovereign of eternal memory was sacrificed ) being half dead, he was cut down by the common Executioner, his Privy Members cut off before his Eyes, his Bowels burned, his Head severed from his Body, and his Body divided into Quarters, which were returned back to *Newgate* upon the same Hurdle that carried it. His Head is since set on a Pole on the top of the South-East end of *Westminster-Hall*, looking towards *London*. The Quarters of his Body are in like manner exposed upon some of the City Gates.

Monday following, being the <sup>15</sup>fifteenth of October, about the same hour, Mr. *John Carew* was carried in like manner to the same place of Execution; where having suffered like pains, his Quarters were also returned to *Newgate* on the same Hurdle which carried him. His Majesty was pleased to give, upon intercession made by his Friends, his Body to be buried.

Tuesday following, being the sixteenth of October, Master *John Cook*, and Mr. *Hugh Peters*, were about the same hour carried on two Hurdles to the same place, and executed

ted in the same manner, and their Quarters returned in like manner to the place whence they came. The Head of *John Cook* is since set on a Pole on the North-East end of *Westminster-Hall* (on the left of *Mr. Harrison's*) looking towards *London*; and the Head of *Mr. Peters* on *London-bridg*. Their Quarters are exposed in like manner upon the tops of some of the City Gates.

Wednesday, *October 17*, about the hour of nine in the morning, *Mr. Thomas Scot*, and *Mr. Gregory Clement*, were brought in several Hurdles; and about one hour after *Master Adrian Scroop* and *Mr. John Jones* together in one Hurdle were carried to the same place, and suffered the same death, and were returned and disposed of in like manner.

*Mr. Francis Hacker*, and *Mr. Daniel Axtel*, were on Friday the 19th of *October*, about the same time of the morning, drawn on one Hurdle from *Newgate* to *Tiburn*, and there both Hanged; *Mr. Axtel* was Quartered, and returned back, and disposed as the former; but the Body of *Mr. Hacker* was, by his Majesties great favour, given entire to his Friends, and buried.

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FINIS.